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BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

	residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Vardhman Kaushik,
and Mr. Naresh Kaushik.
Respondent No. 1: Ms. P.B. Singh, Advocate and Mr.R.N. Jindal,
Addl. Director, MoEF & CC
Mr. Ardhendo Mauli Kumar Prasad with Mr. B.V.
Niren, Adv. for Ministry of Road Transport and
MoUD & PNG
Mr. Sanjeev Ralli, Adv. for DPCC

	Date and Remarks	Orders of the Tribunal
	Item No. 2 November 28, 2014	This matter has been listed for directions. We have heard the Learned counsel appearing for Parties further. It needs to be noticed that the Hon'ble Supreme Court of India for the first time in the case of M.C. Mehta Vs. Union of India (1998) 5 SCC 206 had passed certain directions imposing restriction on plying of commercial vehicles including taxis which are more than 15 years old as of 02nd October, 1998. This Order was further modified. The Bhure Lal Committee had submitted its report to the Hon'ble Supreme Court which was noticed by the Court in its Order dated 16th April, 1999. In that report it was noticed that more than 90% of the Nitrogen Dioxide and respirable particulate matter is due to diesel. It was observed that the steps should be taken for improvement of quality of diesel that was supplied in the vehicles. It is evident that there are various sources of air pollution.

	Vehicular pollution and burning of materials particularly plastic and allied products that are burnt in open area is one of the major sources of air pollution. Auto Fuel Policy, 2003 have intended to achieve the required targets for prevention and control of pollution. Another serious source of pollution amongst the vehicular pollution is the 3 wheelers particularly that are running on diesel. A Committee has been constituted in order to achieve the vision of Auto Vision and Policy 2025. The Hon'ble Supreme Court had further directed on 29th April, 1999 that non-commercial vehicles should also conform to Euro – II norms and only then they should be registered in NCR of Delhi. This was expected to complied with by the year 2000. The Hon'ble Supreme Court again vide its order dated 18th September, 2009 in the case Bharat Petroleum Corporation Ltd Vs. Sunil Bansal had passed directions to the concerned Authorities to take various steps in relation to the prevention and control of air pollution. Despite the above orders of the highest court of the land there is hardly any improvement in the ambient air quality of NCT of Delhi. In fact it has already been noticed in our previous order that it has gone from bad to worse . The present state of affairs cannot be permitted to persist any longer. The Applicant before us has argued at some length that if this serious environmental issue is not resolved at the earliest, inevitable results may couse serious danger to human health in NCT of Delhi. We have already referred to the study which has been conducted by the

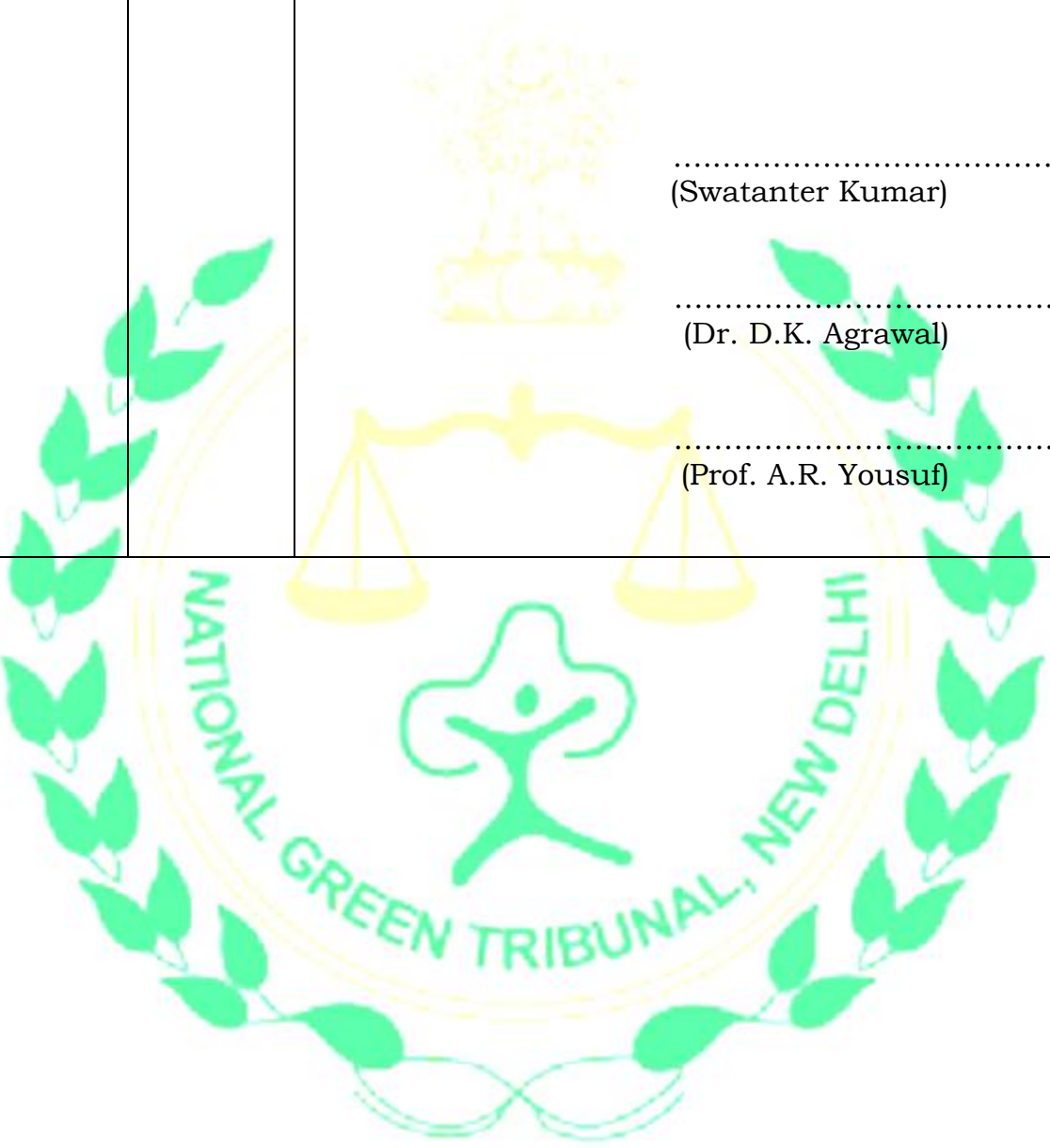
	different bodies and was widely reported. It mentions that even the morning walkers intake air that is highly polluted, air is dangerous to human health and is worst in the morning and evening hours. Despite the fact that Expert Members are on the Bench of the Tribunal hearing the matters, at the request of the parties and in the interest justice, we would prefer to adopt the approach which is more consultative and provide a leverage for deliberations with the stake holders and the Authorities which are responsible for implementation of the directions of the Tribunal and the law in force. The limitations or any other difficulties that an implementing agency or State or Central Government may have, in our opinion, should be directed to bring it to the notice of the Tribunal for ensuing passing of directions which can be effectively, expeditiously be implemented for protection of the environment and public health. The Tribunal would certainly, within the framework of the National Green Tribunal Act, 2010, take a consultative and deliberated approach with the stakeholders to resolve an issue of such wide magnitude and/or of greatest public welfare and is seriously effecting the environment. In furtherance to this, we direct holding of a meeting on Tuesday i.e. 02nd December, 2014 at 1.00 P.M. in the conference hall of the NGT where the following would be present:- 1. All the learned counsel appearing before us; 2. Addl. Secretary, MoEF; 3. Addl. Secretary, Ministry of Petroleum as deputed by the Secretary of the Ministry;

		4. Chairman, CPCB 5. Secretaries of NCT Delhi directly concerned with the implementation of the order of the Tribunal dated 26th November, 2014 preferably Secretary of Environment, Secretary of Transport, Secretary of Health and Secretary of Finance; 6. The Commissioner of Police, Delhi; 7. Addl. Commissioner of Police in charge of Traffic, Delhi; 8. RTO; 9. Addl. Secretary of Ministry of Urban Development, Govt. of India; 10. Addl. Secretary of Ministry of Road and Surface Transport, Govt. of India ; 11. Commissioners of all the Corporations of Delhi including CEO of NOIDA and HUDA; 12. Chairman of Planning Board; 13. MD of DTC. In the meanwhile, we would require the Authorities to submit their views to the Tribunal on the one hand and implement the directions contained in our Order dated 26th November, 2014 as well as the directions contained hereinafter without default and delay, on the other hand. The matters which fall in this ambit and would be subject of deliberation in the Chamber meeting <i>inter alia</i> but primarily on the following issues:- a) Implementation of our order dated 26th November, 2014; b) Methodology to be adopted for introducing pool car and providing of incentives in that behalf;

		c) Complete lay out plan for obstruction- free flow of vehicular traffic in the NCT Delhi; d) Dimensions to which the public transportation system needs to be upgraded, increased and to ensure that there are pollution free systems. e) No bus or vehicle owned and under control of DTC or any bus operating under contract with DTC which is more than 15 years old as on 01st December, 2014 would ply and/or permitted to be plied on any part of NCT Delhi. This order will equally apply to the buses owned and/or under contract with State of Haryana, State of Uttar Pradesh, State of Rajasthan, State of Punjab, and all other States whose buses are coming to Delhi from the destination of their respective States. MD of DTC and other Officers incharge of the buses in the respective States shall ensure and personally be liable for implementation of these directions. f) Air filter should be installed in terms of our order dated 26th November, 2016 particularly in the markets places which are highly crowded in terms of human beings and vehicles and places, gardens where the residents of NCT of Delhi go for morning or evening walk, as the case may be; g) Installation of in-line weigh bridges and their proper functioning which we have directed vide our earlier order shall be adhered strictly. Further, we direct weigh bridges shall be computerised and such system should be directed to be installed through the concerned Agencies and Departments immediately;

		h) The CPCB, DPCC, Secretary Environment, NCT Delhi, including Secretary of Transport, Uttar Pradesh and Haryana shall ensure that agencies which have been engaged for the purposes of checking emissions from vehicles, act strictly in accordance with law and do not issue any certificate casually; i) The Authorities shall inform the Tribunal in the meeting as to what steps can be taken and/or what penalties can be imposed against the agency issuing PUC (Pollution Under Control) Certificate, if they are found to be erring or issuing certificates to non-conforming vehicles. In the meanwhile, all concerned agencies shall inspect the agencies authorised to issue PUC and provide status report to the Tribunal and any PUC agency operating illegally and unauthorisedly shall be closed forthwith. List this case for meeting in the conference hall of NGT on Tuesday, 02nd December, at 1.00 PM. The case shall come for hearing before the Tribunal on 12th January, 2014. The date already fixed for 09th January, 2014 shall stand cancelled. Let copy of this Order be placed immediately by the Registry on the website. Learned counsel appearing for the parties would inform their respective clients and to all other Departments who have been directed to be present in terms of this order.

		The records of Original Application No. 01 of 2012, Sanjay Agnihotri Vs. Union India & Ors. may also be called for hearing for that date. Learned counsel appearing for appearing NOIDA and greater NOIDA Authority accept Notice. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015 &
M.A. NO. 234 OF 2015)**

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava, Adv.
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate
	Respondent No. 2 & 4:	Mr. Narendra Pal Singh, Adv. and Mr. Dinesh, Adv.
	Respondent No. 3,5,6:	Mr. Ardhendumauli Kumar Prasad, Adv. Mrs. Avnish Ahlawat, and Mr. Nitish Singh, Adv. Mr. M.K. Sharma and Mr. R.R. Rasana, Adv. Ms. Savitri Pandey, Adv. for the State of U. P. Mr. Sanjeev Ailawadai, Adv. and Ms. Priyadeep, Adv. in M.A. Nos. 122/2015 and 2019/2015 Mr. I.K. Kapila, Mr. S.K. Pobbi, Ms. Shiksha Rai and Mr. A.K. Singh, Adv. In M.A. No. 200 of 2015 Mr. Balendu Shekhar and Mr. Vivek Jaiswal, Adv. Ms. Puja Kalra and Mr. Dhamendra Kumar, Adv. for South and North MCD Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. Mr. Rajiv Bansal, Mr. Kush Sharma and Ms. D. Ray, Adv. for DDA Mr. D. Rajeshwar, Adv. Mr. M. Yogesh Kaura with Mr. A. Santha Kumar, Adv. Mr. Arun Barroka, Mr. Jayesh Kumar, Mr. G.P. Bansee and Mr. Diwakar Aggarwal, Adv. Mr. Zubaida Begam, Adv. Mr. Raman Yadav, Adv. Mr. Rakesh K. Sharma, Inspector, Mr. Abhishek K. Sharma, ACP, Mr. Mahesh Kumar, SHO, Mr. S.K. Patil, ACP, Mr. Rishi, ACP, Mr. Sunder Kumar and Inspector Chauhan,

And

Present:	Applicant:	Mr. Sanjay Kulshreshtha,
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 7:	Mr. Rahul Choudhary, Adv.

Respondent No. 10:

Mr. M. Yogesh Kaura with Mr. Santha Kumar,
Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 08 & 09 March 16, 2015	Under the orders of the Tribunal the CPCB had been directed to assess the NCRs ambient air quality status, and the Board has in furtherance thereto carried out the studies and submitted a report The National Capital Region (for short ‘NCR’) is a unique example of interstate regional development planning for a region with NCT of Delhi as its core. This region covers an area of near 34,144 km. Nothing contrary to the case pleaded by the Applicants and as widely reported by the print media has come to the notice of this specialized body. On the contrary it brings on record an alarming situation of polluted ambient air quality in the NCT of Delhi. Just to notice a few, nitrogen dioxide was found to be beyond the prescribed value of 80 µg/m³ i.e. range of 4-367 µg/m³ on 145 occasions in Delhi on 24 hour basis. Particulate Matters (PM₁₀) of the monitoring locations, the value ranged from 14-948 µg/m³ against the prescribed limit of 100 µg/m³ on 538 occasions out of 545. In case of particulate matter PM_{2.5}, the samplings show value ranges from 30.41 to 1284 µg/m³ indicating that almost all of them exceed the NAAQS standard of 60 µg/m³. Carbon monoxide sampling showed the value ranged from 0.2 to 21.19 mg/m³ which exceeds the prescribed NAAQS standard of 2 mg/m³. In this report, it has also been noticed that ambient air quality during peak hours shows PM₁₀, PM_{2.5}, CO and Benzene exceeds the prescribed standards.

	At this stage we may also make a reference to a connected Application i.e. original application no. 95 of 2014 wherein Cardio Pediatric Surgeon, who moved a petition before the Hon'ble Supreme Court of India which is transferred to this Tribunal, has contended that the ambient air quality in most of the Metropolitan cities and even including Agra is so injurious to human health that it would adversely affect human foetus and newly born children between 1 to 5 years would be exposed to very high risk of developing respiratory health problems. Presence of pollutants in the ambient air quality of Delhi is a matter of concern for all stake holders. Human health is an integral facet of Right to life and thus must take precedence over all commercial and infrastructure projects. The principal of inter generational equity demands that all institutions, be it legislature, judiciary, executive, must make all possible endeavor to ensure proper air quality as it must pass on to its next generation if not improved but atleast, the environment that it has inherited from it ancestors. The scientific data undoubtedly indicates that the problem is very severe and if not checked the results would be drastic. Nobody can claim a right which will infringe upon or destroy the right to life. The Hon'ble Supreme Court of India in many cases has held that healthy, clean and decent environment is a mandate of Article 21 of the Constitution of India. Thus, strict enforcement of environmental provisions of law is the duty of all concerned including this Tribunal. We are pained to note that despite our repeated persuasive and mandatory orders the Authorities concerned have not

	risen to the occasion for taking proper and effective steps. The response lacks will and bonafides and exhibits callous attitude of shifting responsibility from one to other. This compelled us to pass an order on 10th March, 2015 resulting in issuance of show cause notice to the concerned Authorities of the State as to why an order of attachment and civil imprisonment in the terms of Order XXI of the CPC besides other actions that the Tribunal could take within the scheme and provisions of the National Green Tribunal Act, 2010 be not taken for non-compliance of the orders of this Tribunal which in any case is to be executed as a decree of the Civil Court. The Secretary, PWD appeared before us and assure to the Tribunal that within one week from today the steps would be taken. Though we hardly found any justification for non-compliance of the Orders and directions of the Tribunal, still on the assurance given by the Senior Officer of the NCT of Delhi, we would grant last opportunity to the NCT of Delhi and its Department and Police Authority to ensure the compliance of the directions contained in the various orders of the Tribunal. However, it would not exempt the Authorities from replying to the show cause notice issued by the Tribunal. Let the compliance report be submitted before the next date of hearing particularly in relation to Lajpat Nagar. We are also informed that temporary parking by Delhi Urban Shelter Board (DUSB) has not been operated as earlier agreed by the Board and directed by the Tribunal. We issue clear and unambiguous directions that the parking in that area shall be permitted forthwith. In the

	event of default the Director of the said Board shall be personally responsible rendering himself liable for an action in accordance with law under the orders of the Tribunal. The CPCB has also brought to our notice that it had inspected 15 old and 12 new buses of DTC that are plying on the roads of Delhi. Out of these, 12 new buses were found to be compliant with the prescribed emissions norms- while out of 15 old vehicles 9 were found compliant and 6 were found to be non-confirming to the prescribed standards. All the 6 buses mentioned in the report of CPCB shall forthwith be taken off the roads of Delhi. If these buses are found to be plying on the roads of Delhi the CEO of DTC shall be personally responsible for consequences for violating the Orders of the Tribunal. These buses however, would be subjected to the inspection by an Expert Team that would be appointed by the Tribunal and their operation would be permitted only after the Orders of the Tribunal. From the above scientific data it is clear that the presence of particulate matters and carbon in air needs to be checked. We have directed NCT Delhi to submit its view on various aspects to the Tribunal which has not been done so far. We direct the compliance to be made within one week from today without default. The Affidavit-cum-status Report shall be filed by the Secretary, NCT Delhi after holding a meeting chaired by the Chief Secretary of Delhi where all Departments, authorities, police should be directed to be present. This would deal with the compliance/non-compliance of each direction. We also direct the NCT Delhi to submit its view as to why all the Diesel (commercial or otherwise) vehicles plying in Delhi which are more than 10

	years old should not be taken off the roads and be not permitted from plying in the city. These views with scientific data should be submitted to the Tribunal, along with the exact number of Diesel vehicles which are more than 10 years old and their impact on ambient air quality. The direction in relation to Karol Bagh, Lajpat Nagar, South Ex. and Nehru Place shall be continued to be complied without default and delay, and a report shall be submitted by the Secretary even in that behalf. We make it clear that it should be brought before the Tribunal as to why the multi-level parking proposals which are pending for years before the Authority are not being implemented, reasons thereof and how they would be implemented in a time frame. Since some steps have been taken in Lajpat Nagar, we direct CPCB to take the ambient air quality samples at the same place where the samples were collected earlier on next Tuesday and Wednesday and submit analysis Report to the Tribunal. Comparative pre-existing data for the year 2014 should also be mentioned in that Report. The Applicant in Original Application No. 95 of 2014 is permitted to make a Power Point Presentation to the Secretary of MoEF, Chief Secretary Delhi, Chairman of CPCB and DPCC along with the other Sr. Most officers of the respective corporation, who shall remain present for the presentation. Let this be done on 7th April, 2015 on which date the case is also to be listed before the Tribunal. The State of UP, State of Haryana and State of Rajasthan all are directed to provide and fully cooperate with NCT Delhi for installation and effective operation of the

	weighing machines those already existing in their respective jurisdiction or are required to be installed under the Orders of the Tribunal. We reiterate our directions that overloaded vehicles would not be permitted to enter NCR Delhi. We also direct that in all the markets particularly Lajpat Nagar, Karol Bagh, South Ex., Chandani Chowk and other densely polluted markets the loading and unloading would not be allowed from 11:00 a.m. to 8:00 p.m. everyday. All persons filing M.A.'s shall pay requisite fees under the rules. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

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

**Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 482, 502, 618, 631, 683, 778, 778,
812, 1014, 1015, 1029 of 2015)**

And

Original Application No. 95/2014

And

Original Application No. 303/2015

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present:	Applicant:	Mr. Salik Shafique, Adv. for Mr. Sanjay Upadhyay.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Advs. For MoEF & CC
	Respondent No. 6 & 7 :	Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs. For MoUD & MoPNG
		Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment
		Mr. D. Rajeshwar Ra, Adv. Mr. Charanjeet Singh, Mr. Ravinder Soni(ACP) and Mr. Harvinder Singh, DCP for Transport Deptt. and Delhi Police, GNCT, Delhi
		Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Akshay Abrol, Adv. Mr. Rajesh Ranjan Ms. Somya Rathore, Mr. Tavinder Sidhu, Mr. Mahesh Kr., Mr. P. K. Kaushik Advs. for MoRTH(NHAI), M. V. Kini & Co.
		Ms. Pinky Anand, ASG, Mr. Tavinder Sidhu, Mr. Mukesh Kr. Mr. P.K. Kaushi for Advs. for CONCOR
		Mr. Shubham Bhalla, Adv. for UT Chandigarh
		Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Advs. For State of Meghalaya
		Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P.
		Mr. Atul Jha, Adv. for State of Chhattisgarh
		Mr. Jogy Scaria, Adv. for State of Kerala
		Mr. Rajiv Bansal and Mr. Kush Sharma, and Mr. Siddhant Gupta, Advs. (DDA)
		Ms. Aruna Mathur and Mr. Avneesh Arputham, Ms. Anuradha Arputham, Advs. For State of Sikkim
		Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA.
		Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs. for State of Chhattisgarh.
		Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Advs. for State of Manipur & PCB
		Mr. Jayesh Gaurav, Adv. for JSPCB
		Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Advs. for State of Bihar and BSPCB
		Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
		Mr. Preeti Makkar and Mr. Abhimanu Garg, Advs. for UT of Pondichery
		Mr. D. K. Takkar, Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.

Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
 Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana
 Ms. K. Enatoli Sema and Mr. Amit Kumar, Advs. State of Nagaland, Nagaland PCB
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for EDMC
 Ms. Sakshi Popli, Ms Kanika Mittal, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation
 Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Shrey Kapoor and Mr. Saurabh Rajpal, Advs. For State of Rajasthan.
 Mr. Sunil Satayarth, Adv. Mr. Mohd. Abitasham, Adv For Delhi Cantonment Board
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu, Mr. A.K. Sharma, Mr. Anil Kumar Sharma and Mr. P. Kaushik for NHAI
 Mr. Mansi Chatpalliwar, Mr. Pratyush Prasanna, Advs. with Mr. Mahesh Gautam, DGM (Sales) for Ashok Leyland Ltd.
 Mr. KTS Tulsi, Sr. Adv, Mr. Diljeet T., Mr. Raj Kamal, Mr. Utkarsh Goel, Advs. Akshat Kulshreshta and Mr. Raj Kamal, Advs. For HMCI
 Mr. Sunil Kumar Sethi, Ms. Hemantika Wahi, Advs. For State of Gujarat
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Natasha Sahrawat, Adv. Ms. Meera Mathur, Ms. Nandini Gore, Mr. Aditi Bhatt, Advs. Mr. Sharmendra Choudhary, Legal Manager, Ms. Khushboo Bari, Adv. Mr. Sunil Pandey, Head, DTC and Mr. Bipin Das, Law Manager for Tata Motors Ltd.
 Mr. Avnish Ahlawat with Mr. Nitish Singh, Advs with Mr. M Nitesh Singh, (DTC)
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Sunil Satayarth, Mr. Ashok Kr. Advs. For Delhi Cantonment Board
 Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr. Dattaprasad Lawande, S.S. Rebello, Mr. and Ms. Anshuman Srivastava, Advs. for State of Goa and GSPCB
 Mr. V.K. Mishra, Adv. for Ghaziabad Mahanagar Goods Transport Association (M.A. No. 1014 & 1015 of 2015)
 Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs for Noida and Greater Noida
 Mr. Tariq Adeeb, Adv. in M. A. No. 1029 of 2015

Present: **Applicant:**
 Respondent No.1:
 Respondent Nos. 2 to 6:

 Respondent No. 7 :

Mr. Saurabh Agrawal and Mr. Akshat S. Advs.
 Mr. Vikas Malhotra, with M. P. Sahay, Advs.
 Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs.
 Mr. Rahul Choudhary, Adv.
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Jogy Scaria, Adv. for State of Kerala
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB

Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs. For State of Sikkim
Ms. K. Enatoli Sema Adv. for State of Nagaland, Nagaland PCB
Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Mr. Vijayanand Advs. for State of Manipur & PCB
Mrs. Pinky Anand, ASG, Mr. T.S. Sidhu and Mr. Kaushik, Advs.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana
Mr. Sunil Satayarth, Mr. Mohd. Abitasham Advs. For Delhi Cantonment Board
Mr. Ravikant Pal, Mr. Pragyan Sharma and Mr. Pulkit Prakash, Advs. for State of Mizoram
Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.
Ms. Preeti Makker and Mr. Abhimanyu Garg, Advs for UT of Pondichery.
MR. Devraj Ashok, Adv. for State of Karnataka
Mr. Shubham Bhalla, Adv. for Chandigarh Admn.
Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs for State of Chattisgarh
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
Mr. P. Venkat

Original Application No. 303 of 2015

Applicant :

Ms. Bhakti Pasrija Sethi, Ms. Shubhra Sena Ms. Sudha Pati, Adv., Ms Mamta Rani and Ms. Prerna Kumari, Advs.

Respondent No. 1 :

Mr. Karan Singh, Adv. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 5 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP.

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana

Mr. RajKumar Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 156 to 158 October 7, 2015	We have heard the learned Counsel appearing for the parties including the learned Counsel appearing for the NCT of Delhi, State of Haryana, State of UP, NHAI and other authorities. It is a conceded position before us that vehicular pollution is one of the main sources of polluted air in Delhi. We have already passed detailed directions in

		relation to all known sources of air pollution which are adversely affecting the air quality in NCT of Delhi. They are dust, emissions from burning and pollution resulting from vehicular emissions. All the earlier orders passed by the Tribunal would continue to be in force without any change or alterations. We direct all the concerned authorities to carry out the directions and the preventive steps recorded in the orders of the Tribunal passed from time to time. Keeping in view the heavy vehicular pollution in Delhi primarily resulting from heavy vehicles and even more specifically the diesel vehicles which are primarily used for transportation of goods and other materials, there has been some controversy even in regard to number of vehicles which enter Delhi everyday from its different entering points. However, a statement has been filed today on behalf of the NCT of Delhi (Traffic Police) that nearly 66069 commercial vehicles of different kinds enter Delhi out of which, 6 wheel trucks, 10 wheel trucks and 14 and above wheel trucks account for approximately 14000. These heavy vehicles are not destined to terminate at Delhi. They include more than 25% vehicles which are enroute and just pass through Delhi for convenience, better road and less toll tax. It is stated before us that the low toll tax is an incentive for heavy vehicles to pass through Delhi rather than take alternative routes which would reduce the pollution level on the one hand and on the other hand would even be more convenient for transportation purpose as they could turn to their direct destination like UP and Rajasthan without entering Delhi from side

	of the Sonipat/Panipat. The charges payable at Delhi are Rs. 600/- while for the vehicles passing through Haryana they are Rs. 930/- to 1550/- depending upon the kind of trucks that are entering. It is undisputed before us that not only from the side of the respondents, but even the applicant, that alternative routes for heavy vehicles should be adopted in order to de-congest Delhi traffic as well as to improve the air quality in Delhi. As regards the different alternative routes that have been suggested after deliberations, we are of the considered view that the heavy vehicles destined for places other than Delhi could be diverted at Panipat in Haryana through Rohtak and be directed to take the route Panipal - Bawal, NH-71A & 71 which will exit at NH-8 at Bawal. It is further pointed out that the alternative route is dual carriage four lane and can be conveniently used for heavy vehicular traffic. The other aspect is with regard to the pollution being caused by the heavy vehicles particularly the transportation vehicles whether destined for Delhi or enroute Delhi. All these vehicles, must pay environmental compensation in terms of Sections-15 & 17 read with Section-14 of the National Green Tribunal Act, 2010 for the pollution being caused. The undue incentive derived by the heavy vehicles to enter Delhi, just to save Rs. 1000/- or so does not appear to be reasonable and environmentally tolerable. Therefore, considering the quantum of tax being collected by the NCT of Delhi as well as the fact that there is no material travel distance difference, in our considered view it will

		be appropriate to direct the checking posts provided by the NCT of Delhi, under the orders of the Tribunal and even otherwise, to charge the heavy transport vehicles entering NCT of Delhi with their final destination Delhi or enroute to other places entering from Sonipat side to pay environmental compensation in addition to the toll tax payable by them @ Rs. 700/- for 2 axle, Rs. 500/- for 4 and above axle and Rs. 1000/- for 3 axle heavy vehicles. In light of the above, we pass the following directions: 1. All the trucks, heavy vehicles irrespective of 2, 3 and 4 axle and above, destined for places other than Delhi shall be diverted at Panipat toll plaza to adopt the alternative route afforested that is Panipat, Bawal, NH-71, 71-A which would exit at NH-8 across Bawal. The trucks and heavy vehicles entering Delhi would pay environmental compensation as follows i.e. Rs. 700/- for 2 axle, Rs. 500/- for 4 axle and Rs. 1000/- for 3 axle. 2. The above amount would be in addition to the toll tax otherwise payable by them in accordance with law in force. The amounts collected on account of the environmental compensation would be paid to the DPCC, which shall utilize it for taking steps for improving the air quality in Delhi and a separate account in that behalf would be maintained. The amount will be collected by the NCT of Delhi toll posts and diverted to the DPCC. The amount so collected, for improving the air quality of Delhi, would be spent by the CPCB and

		DPCC on joint projects. 3. The vehicles which are enroute Delhi and have not taken the alternative route as directed at Panipat, would not be permitted to enter Delhi and would be returned to Panipat to take the alternative route. 4. The check posts already created under the orders of the Tribunal would be entitled to direct these vehicles to return to Panipat or other alternative route. 5. The NHAI or any of its assignee or concessionaire and the State of Haryana would be responsible for diverting the trucks to the alternative routes. However, the principal liability to implement these directions will be that of the Government and the public authorities and NHAI. 6. These directions would equally apply on return traffic entering from Bawal which will be diverted to Panipat without entering NCT of Delhi and will pass through NCT of Delhi, Gurgaon, Faridabad, Ghaziabad and Bahadurgarh. 7. The Central Pollution Control Board (CPCB) and the DPCC are hereby directed to purchase and/or arrange proper mechanism and instruments for checking emissions of moving overloaded heavy vehicles, as measuring the emissions of standing vehicles, particularly transportation vehicles, would never depict correct data which are the basic cause for raising particulate matter and carbon content in the air. 8. In the meanwhile, we direct the Joint

		Commissioner (Traffic Police) of Delhi, Joint Commissioner (Traffic Police) of Haryana and Joint Commissioner (Traffic Police) of Uttar Pradesh to examine if there is any possibility of adopting alternative routes from Ghaziabad and Gurgaon. 9. The learned Counsel appearing for the State of Haryana submits that the work on Western Expressway, which will completely by pass NCT of Delhi, is in progress. They will abide by the undertaking given to the Tribunal and ensure that first phase is completed by January, 2016 and made operational. We direct the State of Haryana to ensure that the Western Expressway is made operative strictly in terms of the undertaking furnished and the orders of the Tribunal. 10. The learned ASG appearing for the NHAI submits that the work of Eastern Expressway, which had not been awarded for the last more than five years, has already been awarded. The NHAI is in the process of taking possession of the land and would ensure expeditious completion of the project. We direct the NHAI accordingly. The local authorities are directed to facilitate the progress of the said project. 11. We allow the vintage sports activity to be conducted on 18th October, 2015, with the same restrictions as already directed by the Tribunal under its various orders. It will be a one day sports activity. The vintage cars would not be

	driven on the roads for regular transportation. 12. In the meanwhile, we in furtherance to the directions contained in the previous orders of the Tribunal direct the CPCB, MoEF and the Ministry of Transportation, Government of India to identify the places which have least car population density and have more area for dispersion and dilution of the emissions. All other matters and miscellaneous applications would be taken up for hearing on the next date of hearing which is 2nd November, 2015. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: **Applicant:** Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
 Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
 Respondent No. 2: Ms. Alpana Poddar, Advocate
 Respondent No. 4: Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy.
 Dr. S.D. Singh, CEO Parks and Garden Society
 Mr. Kush Sharma, Adv. for DDA
 Ms. Puja Kalra, Adv. for South and North MCD
 Ms. Savitri Pandey, Adv.
 Mr. Balendu Shekhar, Adv. for EDMC
 Mr. Sanjiv Verma, IAS, Director Environment
 Mr. P.C. Meena, IAS, Administrator, HUDA
 Mr. Mahavir Singh, HCS, Addl. Transport Commissioner
 Dr. Yadav, Chief Engineer, ULB Haryana
 Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO
 Ms. Bano Deswal, AAG Haryana
 Mr. Ardhendumauli Kumar Prasad, Adv.
 Mr. B.V. Niren and Prasouk Jain, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforestated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

**Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 482, 502, 618, 631, 683, 778, 778,
812, 1014, 1015, 1029 of 2015)**

And

Original Application No. 95/2014

And

Original Application No. 303/2015

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present:	Applicant:	Mr. Salik Shafique, Adv. for Mr. Sanjay Upadhyay.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Adv. For MoEF & CC
	Respondent No. 6 & 7 :	Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Adv. For MoUD & MoPNG
		Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment
		Mr. D. Rajeshwar Ra, Adv. Mr. Charanjeet Singh, Mr. Ravinder Soni(ACP) and Mr. Harvinder Singh, DCP for Transport Deptt. and Delhi Police, GNCT, Delhi
		Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Akshay Abrol, Adv. Mr. Rajesh Ranjan Ms. Somya Rathore, Mr. Tavinder Sidhu, Mr. Mahesh Kr., Mr. P. K. Kaushik Adv. for MoRTH(NHAI), M. V. Kini & Co.
		Ms. Pinky Anand, ASG, Mr. Tavinder Sidhu, Mr. Mukesh Kr. Mr. P.K. Kaushi for Adv. for CONCOR
		Mr. Shubham Bhalla, Adv. for UT Chandigarh
		Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Adv. For State of Meghalaya
		Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P.
		Mr. Atul Jha, Adv. for State of Chhattisgarh
		Mr. Jogy Scaria, Adv. for State of Kerala
		Mr. Rajiv Bansal and Mr. Kush Sharma, and Mr. Siddhant Gupta, Adv. (DDA)
		Ms. Aruna Mathur and Mr. Avneesh Arputham, Ms. Anuradha Arputham, Adv. For State of Sikkim
		Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Adv. For NOIDA & Greater NOIDA.
		Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Adv. for State of Chhattisgarh.
		Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Adv. for State of Manipur & PCB
		Mr. Jayesh Gaurav, Adv. for JSPCB
		Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Adv. for State of Bihar and BSPCB
		Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Adv. For State of W.B. & WBPCB.
		Mr. Preeti Makkar and Mr. Abhimanu Garg, Adv. for UT of Pondichery
		Mr. D. K. Takkar, Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Adv. For UT Daman & Diu, Dadar & Nagar Haveli.

Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
 Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana
 Ms. K. Enatoli Sema and Mr. Amit Kumar, Advs. State of Nagaland, Nagaland PCB
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for EDMC
 Ms. Sakshi Popli, Ms Kanika Mittal, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation
 Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Shrey Kapoor and Mr. Saurabh Rajpal, Advs. For State of Rajasthan.
 Mr. Sunil Satayarth, Adv. Mr. Mohd. Abitasham, Adv For Delhi Cantonment Board
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu, Mr. A.K. Sharma, Mr. Anil Kumar Sharma and Mr. P. Kaushik for NHAI
 Mr. Mansi Chatpalliwar, Mr. Pratyush Prasanna, Advs. with Mr. Mahesh Gautam, DGM (Sales) for Ashok Leyland Ltd.
 Mr. KTS Tulsi, Sr. Adv, Mr. Diljeet T., Mr. Raj Kamal, Mr. Utkarsh Goel, Advs. Akshat Kulshreshta and Mr. Raj Kamal, Advs. For HMCI
 Mr. Sunil Kumar Sethi, Ms. Hemantika Wahi, Advs. For State of Gujarat
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Natasha Sahrawat, Adv. Ms. Meera Mathur, Ms. Nandini Gore, Mr. Aditi Bhatt, Advs. Mr. Sharmendra Choudhary, Legal Manager, Ms. Khushboo Bari, Adv. Mr. Sunil Pandey, Head, DTC and Mr. Bipin Das, Law Manager for Tata Motors Ltd.
 Mr. Avnish Ahlawat with Mr. Nitish Singh, Advs with Mr. M Nitesh Singh, (DTC)
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Sunil Satayarth, Mr. Ashok Kr. Advs. For Delhi Cantonment Board
 Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr. Dattaprasad Lawande, S.S. Rebello, Mr. and Ms. Anshuman Srivastava, Advs. for State of Goa and GSPCB
 Mr. V.K. Mishra, Adv. for Ghaziabad Mahanagar Goods Transport Association (M.A. No. 1014 & 1015 of 2015)
 Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs for Noida and Greater Noida
 Mr. Tariq Adeeb, Adv. in M. A. No. 1029 of 2015

Present: **Applicant:**
 Respondent No.1:
 Respondent Nos. 2 to 6:

 Respondent No. 7 :

Mr. Saurabh Agrawal and Mr. Akshat S. Advs.
 Mr. Vikas Malhotra, with M. P. Sahay, Advs.
 Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs.
 Mr. Rahul Choudhary, Adv.
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Jogy Scaria, Adv. for State of Kerala
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB

Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs. For State of Sikkim
Ms. K. Enatoli Sema Adv. for State of Nagaland, Nagaland PCB
Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Mr. Vijayanand Advs. for State of Manipur & PCB
Mrs. Pinky Anand, ASG, Mr. T.S. Sidhu and Mr. Kaushik, Advs.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana
Mr. Sunil Satayarth, Mr. Mohd. Abitasham Advs. For Delhi Cantonment Board
Mr. Ravikant Pal, Mr. Pragyan Sharma and Mr. Pulkit Prakash, Advs. for State of Mizoram
Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.
Ms. Preeti Makker and Mr. Abhimanyu Garg, Advs for UT of Pondichery.
MR. Devraj Ashok, Adv. for State of Karnataka
Mr. Shubham Bhalla, Adv. for Chandigarh Admn.
Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs for State of Chattisgarh
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
Mr. P. Venkat

Original Application No. 303 of 2015

Applicant :

Ms. Bhakti Pasrija Sethi, Ms. Shubhra Sena Ms. Sudha Pati, Adv., Ms Mamta Rani and Ms. Prerna Kumari, Advs.

Respondent No. 1 :

Mr. Karan Singh, Adv. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 5 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP.

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana

Mr. RajKumar Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 156 to 158 October 7, 2015	We have heard the learned Counsel appearing for the parties including the learned Counsel appearing for the NCT of Delhi, State of Haryana, State of UP, NHAI and other authorities. It is a conceded position before us that vehicular pollution is one of the main sources of polluted air in Delhi. We have already passed detailed directions in

		relation to all known sources of air pollution which are adversely affecting the air quality in NCT of Delhi. They are dust, emissions from burning and pollution resulting from vehicular emissions. All the earlier orders passed by the Tribunal would continue to be in force without any change or alterations. We direct all the concerned authorities to carry out the directions and the preventive steps recorded in the orders of the Tribunal passed from time to time. Keeping in view the heavy vehicular pollution in Delhi primarily resulting from heavy vehicles and even more specifically the diesel vehicles which are primarily used for transportation of goods and other materials, there has been some controversy even in regard to number of vehicles which enter Delhi everyday from its different entering points. However, a statement has been filed today on behalf of the NCT of Delhi (Traffic Police) that nearly 66069 commercial vehicles of different kinds enter Delhi out of which, 6 wheel trucks, 10 wheel trucks and 14 and above wheel trucks account for approximately 14000. These heavy vehicles are not destined to terminate at Delhi. They include more than 25% vehicles which are enroute and just pass through Delhi for convenience, better road and less toll tax. It is stated before us that the low toll tax is an incentive for heavy vehicles to pass through Delhi rather than take alternative routes which would reduce the pollution level on the one hand and on the other hand would even be more convenient for transportation purpose as they could turn to their direct destination like UP and Rajasthan without entering Delhi from side

	of the Sonipat/Panipat. The charges payable at Delhi are Rs. 600/- while for the vehicles passing through Haryana they are Rs. 930/- to 1550/- depending upon the kind of trucks that are entering. It is undisputed before us that not only from the side of the respondents, but even the applicant, that alternative routes for heavy vehicles should be adopted in order to de-congest Delhi traffic as well as to improve the air quality in Delhi. As regards the different alternative routes that have been suggested after deliberations, we are of the considered view that the heavy vehicles destined for places other than Delhi could be diverted at Panipat in Haryana through Rohtak and be directed to take the route Panipal - Bawal, NH-71A & 71 which will exit at NH-8 at Bawal. It is further pointed out that the alternative route is dual carriage four lane and can be conveniently used for heavy vehicular traffic. The other aspect is with regard to the pollution being caused by the heavy vehicles particularly the transportation vehicles whether destined for Delhi or enroute Delhi. All these vehicles, must pay environmental compensation in terms of Sections-15 & 17 read with Section-14 of the National Green Tribunal Act, 2010 for the pollution being caused. The undue incentive derived by the heavy vehicles to enter Delhi, just to save Rs. 1000/- or so does not appear to be reasonable and environmentally tolerable. Therefore, considering the quantum of tax being collected by the NCT of Delhi as well as the fact that there is no material travel distance difference, in our considered view it will

		be appropriate to direct the checking posts provided by the NCT of Delhi, under the orders of the Tribunal and even otherwise, to charge the heavy transport vehicles entering NCT of Delhi with their final destination Delhi or enroute to other places entering from Sonipat side to pay environmental compensation in addition to the toll tax payable by them @ Rs. 700/- for 2 axle, Rs. 500/- for 4 and above axle and Rs. 1000/- for 3 axle heavy vehicles. In light of the above, we pass the following directions: 1. All the trucks, heavy vehicles irrespective of 2, 3 and 4 axle and above, destined for places other than Delhi shall be diverted at Panipat toll plaza to adopt the alternative route afforested that is Panipat, Bawal, NH-71, 71-A which would exit at NH-8 across Bawal. The trucks and heavy vehicles entering Delhi would pay environmental compensation as follows i.e. Rs. 700/- for 2 axle, Rs. 500/- for 4 axle and Rs. 1000/- for 3 axle. 2. The above amount would be in addition to the toll tax otherwise payable by them in accordance with law in force. The amounts collected on account of the environmental compensation would be paid to the DPCC, which shall utilize it for taking steps for improving the air quality in Delhi and a separate account in that behalf would be maintained. The amount will be collected by the NCT of Delhi toll posts and diverted to the DPCC. The amount so collected, for improving the air quality of Delhi, would be spent by the CPCB and

		DPCC on joint projects. 3. The vehicles which are enroute Delhi and have not taken the alternative route as directed at Panipat, would not be permitted to enter Delhi and would be returned to Panipat to take the alternative route. 4. The check posts already created under the orders of the Tribunal would be entitled to direct these vehicles to return to Panipat or other alternative route. 5. The NHAI or any of its assignee or concessionaire and the State of Haryana would be responsible for diverting the trucks to the alternative routes. However, the principal liability to implement these directions will be that of the Government and the public authorities and NHAI. 6. These directions would equally apply on return traffic entering from Bawal which will be diverted to Panipat without entering NCT of Delhi and will pass through NCT of Delhi, Gurgaon, Faridabad, Ghaziabad and Bahadurgarh. 7. The Central Pollution Control Board (CPCB) and the DPCC are hereby directed to purchase and/or arrange proper mechanism and instruments for checking emissions of moving overloaded heavy vehicles, as measuring the emissions of standing vehicles, particularly transportation vehicles, would never depict correct data which are the basic cause for raising particulate matter and carbon content in the air. 8. In the meanwhile, we direct the Joint

		Commissioner (Traffic Police) of Delhi, Joint Commissioner (Traffic Police) of Haryana and Joint Commissioner (Traffic Police) of Uttar Pradesh to examine if there is any possibility of adopting alternative routes from Ghaziabad and Gurgaon. 9. The learned Counsel appearing for the State of Haryana submits that the work on Western Expressway, which will completely by pass NCT of Delhi, is in progress. They will abide by the undertaking given to the Tribunal and ensure that first phase is completed by January, 2016 and made operational. We direct the State of Haryana to ensure that the Western Expressway is made operative strictly in terms of the undertaking furnished and the orders of the Tribunal. 10. The learned ASG appearing for the NHAI submits that the work of Eastern Expressway, which had not been awarded for the last more than five years, has already been awarded. The NHAI is in the process of taking possession of the land and would ensure expeditious completion of the project. We direct the NHAI accordingly. The local authorities are directed to facilitate the progress of the said project. 11. We allow the vintage sports activity to be conducted on 18th October, 2015, with the same restrictions as already directed by the Tribunal under its various orders. It will be a one day sports activity. The vintage cars would not be

	driven on the roads for regular transportation. 12. In the meanwhile, we in furtherance to the directions contained in the previous orders of the Tribunal direct the CPCB, MoEF and the Ministry of Transportation, Government of India to identify the places which have least car population density and have more area for dispersion and dilution of the emissions. All other matters and miscellaneous applications would be taken up for hearing on the next date of hearing which is 2nd November, 2015. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

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

Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 502, 618, 631, 683, 778, 778, 812,
1014, 1015, 1029 of 2015 & 1086 of 2015)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present: Applicant:

Mr. Sanjay Upadhyay along with Ms. Divya Sharma, Advs. Mr. Syed Meesam and Mr. Vardhman Kaushik.

Respondent No. 1:

Ms. Panchajanya Batra Singh, Advs. For MoEF & CC

Respondent No. 6 & 7 :

Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs. for MoUD & MoPNG

Mr. Narender Pal Singh, Adv, Dr. M.P. George, Sr. Scientist Kulanad Joshi, Member Secretary,. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment

Mr. Om Prakash, Adv. MoR Northern Railway

Mr. D. Rajeshwar Rao and Mr. Charanjeet Sing, Advs. for Transport Deptt. and Delhi Police, GNCT, Delhi

Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Irene Cheiran Director for MoRTH(NHAI)

Ms. Pinky Anand, ASG and Mr. Akshay Abrol, Advs. for CONCOR

Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Advs. For State of Meghalaya

Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P.

Ms. K. Enatoli Sema and Mr. Amit Kumar Singh, Adv. State of Nagaland

Mr. Atul Jha, Adv. for State of Chhattisgarh

Mr. Apoorv Kurup and Mr. A.C. Boxipatro, Advs. for State of Chhattisgarh.

Mr. Rajiv Bansal and Mr. Kush Sharma, Advs. (DDA)

Ms. Aruna Mathur, Standing Counsel, Mr. Avneesh Arputham and Ms. Anuradha Arputham, Advs. For State of Sikkim

Mr. Sapam Biswajit Meitei, Ms. Kalyani and Mr. Z.H. Issaac Haiding, Advs. for State of Manipur & PCB

Ms. Vinakshi Kadar and Ms. Hemantika Wahi, Advs. For State of Gujarat

Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. for NOIDA and Gr. NOIDA
 Ms. Abhisar Bairagi, Adv.
 Mr. Gopal Singh, Mr. Rituraj Biswas, and Ms. Versha Poddar, Advs. for the State of Tripura
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Advs. for State of Bihar and BSPCB
 Ms. Nandini Gore, Ms. Natasha Sehrawat, Ms. Khushboo Bari, Mr. Bipin, Mr. Shermendra Choudhary, Advs. for Tata Motors
 Mr. A.N.S. Nandkarni, Ag, Mr. Dattaprasad Lawande, Mr. S. S. Rebello, Ms. Purna Bhandari, Mr. Anshuman Shrivastava and Mr. Debarshi Bhuyan, Advs.
 Mr. Kabir Shankar Bose and Mr. Saakar Sardana and Ms. Holika Sukhavi, Advs. For State of W.B. & WBPCB.
 Mr. Gaurav Agarwal and Mr. Akshat Srivastava, Advs. for IGL
 Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
 Mr. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdivaram, Advs.
 Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for MCD and EDMC
 Mr. Naushad Ahmed Khan, Standing Counsel for Delhi Transport Corporation
 Mr. Jogy Scaria and Ms. Beena Vicky, Advs.
 Mr. Saurav Agarwal and Ms. Akshat Srivastava, Advs.
 Ms. Sakshi Popli, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation
 Mr. Ravikant Pal, Mr. Pulkit Prakash and Mr. Pragyan Sharma, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Sharma and Mr. Adhiraj Rajawat, Advs. For State of Rajasthan.
 Mr. Sunil Satayarth, Adv. and Mr. Ashok Kumar, Adv s. For Delhi Cantonment Board
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Ms. Natasha Sahrawat, Ms. Nandini Gore and Mr. Aditi Bhatt, Advs. With Mr. Sharmendra Choudhary, Legal Manager, Mr. Bipin Das, Legal Manager
 Mr. Avijit Roy, Ms. Kankara Arandhara and Ms. Deepika Ghatowar, Advs. For State of Assam.
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu and Ms. Gunjan Sinha Jain, Advs. for NHAI
 Mr. Diljeet Titus and Mr. Utkarsh Goel, Advs., Advs. For HMCI
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Soumya Jit Pani and Mr. P. Venkatesan, Advs. for State of Odhisa
 Mr. Dinesh Kumar Garg and Mr. Parv Kumar Garg, Advs. AOR for State of Uttarakhand
 Mr. Anil Shrivastav, Standing Counsel and Mr. Sanyam Saxena and Mr. Pranav Rishi, Advs. For State of Arunachal Pradesh & PCB

Mrs. Avnish Ahlawat and Mr. N.K. Singh, Advs for
DSIU and PWD
Mr. Guntur Prabakar and Mr. Prashant Mathur,
Advs. For State of Andhra Pradesh
Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for
Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr.
Purna Bhandari, Ms. S.S. Rebello, Mr. Anshuman
Srivastava and Mr. Debarshi Bhuyan, Advs. for
State of Goa and Goa SPCB.
Ms. Alpna Poddar, Adv. along with Mr. S.L.
Gundli, Sr. LO, Central Pollution Control Board
Mr. Anuj Sharma and Mr. Santosh S. Rebello, Adv.
Ms. Puja Singh, Adv.
Mr. Soumyajit Pani and Mr. P. Venkatesan, Advs.
Mr. Jeevan B. Panda and Ms. Abhisar Bairagi,
Advs.

Present: Applicant:

Respondent No.1:

Respondent Nos. 2 to 6:

Mr. Vikas Malhotra, with M. P. Sahay, Advs.
Mr. Ardhendumali Kumar Prasad, Mr. Pryanka
Swami and Mr. Jigdal G. Chankapa, Advs.
Mr. Rahul Choudhary, Adv. for Invenor
Ms. Prerna Singh and Mr. Prashant Mathur, Advs.
For State of Andhra Pradesh
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs.
For State of Tamil Nadu & TNPCB
Mr. Kabir Shankar Bose and Mr. Saakar Sardana
and Holika Sukhalu, Advs. For State of W.B. &
WBPCB.
Mr. Suryanarayan Singh, Sr. Addl. Advocate
General for State of H.P.
Ms. K. Enatoli Sema and Mr. Amit Kumar Singh,
Adv. State of Nagaland
Mrs. G. Indira and Mr. K.V. Jagdishvaran, Advs.
For UT of Andaman & Nicobar Islands
Administration and Mr. Sumit Kumar, Adv.
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Devraj Ashok, Adv. for State of Karnataka
Ms. Aruna Mathur, Standing Counsel, Mr. Shobhit
Nanda, Advs. For State of Sikkim
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand
Sharma and Mr. Kalyani Goswami, Mr. Vijayanand
Advs. for State of Manipur & PCB
Mr. Anil Shrivastav, Standing Counsel and Mr.
Sanyam Saxena and Mr. Pranav Rishi, Advs. For
State of Arunachal Pradesh & PCB
Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Advs. For State of Haryana, Managing Director,
HSIIDC, Haryana, DSP, Panipat & DSP, Rewari,
Chief Engineer, HUDA and Regional Officer,
HSPCB, Gurgaon, North
Mr. Ravikant Pal, Mr. Pulkit Prakash and Mr.
Pragyan Sharma, Advs. for State of Mizoram
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Tariq Adeeb, Adv. in M.A. No. 1029 of 2015
Mr. Deepak Jain, Mr. Alok Misra, Mr. D.K. Thakur,
Ms. Shantala Sankriti and Ms. Aditi Toma, Advs.
Mr. Shubham Jaiswal and Mr. Sarthak Chaturvedy,
Advs.

Original Application No. 303 of 2015

Applicant :

Respondent No. 1 :

Ms. Bhakti Pasrija Sethi, Ms. Prerna Kumari, Ms.
Mamta Rani and Ms. Sudha Pal, Advs.
Mr. Vishwendra Verma, Mr. Pranav Verma and Mr.
Karan Sinha, Advs. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 4 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana
Ms. Alpanna Poddar, Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 28 to 30 December 11, 2015 ss	It is not only undisputable, but in fact the conceded position, that there are 3 prime sources of air pollution in NCT, Delhi as well as NCR, the burning of Municipal Solid Waste and other waste in open, dust generated by construction and allied activities including sweeping of roads and finally vehicular pollution. In regard to all these three aspects, Tribunal had already passed comprehensive directions vide its order dated 26th November, 2014, 04th December, 2014, 07th April, 2015, 28th April, 2015, 07th July, 2015, 17th April, 2015, 14th July, 2015, , 27th July, 2015, 30th July, 2015, and 02nd December, 2015. The Learned Additional Solicitor General appearing for Union of India has stated the aspect on capping of vehicles, it is primarily for the NCT, Delhi to take a stand before Tribunal and as far as end of life of vehicle is concerned, Ministry has already taken the stand that commercial diesel vehicles attaining age of 10 years should be directed to take PUC certificate every 6 months and after 15 years they should be condemned. However, in relation to petrol vehicles, the Union of India does not favour scrapping of vehicle on ageing or otherwise. The Learned Counsel appearing for NCT, Delhi submits in relation to various queries raised by the Tribunal for implementation of the directions already issued that he

	needs further time. He further states that the clear stand of the Government is to impose even and odd car system on the alternative days and for considering all other aspects which would be simultaneously operative to achieve the objective and reduction in air pollution in Delhi, he prays for some time. We think that the authorities concerned must sit together and clearly answer the queries raised by the Tribunal as well as relation to the compliance of the directions already issued which in their considered opinion if implemented simultaneously with the odd and even car system proposed to be introduced would make it for more effective and result oriented. We direct that by way of last opportunity, we grant time to all the Learned Counsel appearing in the case to seek instructions and report to the Tribunal on those aspects. The Learned Additional Solicitor General submits that the Central Government's view of providing certain special benefits for condemnation/scrapping of vehicles have been favorable as has been stated in the note put up before the Tribunal today. Let the Government of NCT, Delhi, consider this view and clearly take stand as to the system to be adopted for scrapping of vehicles particularly diesel vehicles which are more than 10 years of age and the consequential benefits in registration, scrapping, incentive and other incidental benefits that would be granted to the owner of the vehicle in respect of new vehicle like Registration fee/excise duty. Let these instructions be taken by the next date of hearing. The Learned Counsel appearing for NCT, Delhi submits that in all the RTOs in Delhi around 1300 to

	1400 vehicles are being registered everyday which include all types of vehicles heavy and light including two wheelers. Obviously, reasonably good number of vehicle are also being registered at Gurgaon, Bahadurgarh, Ghaziabad and NOIDA. These are over and above the vehicles registered in Delhi. In view of the serious contribution of vehicular pollution to the air quality of NCT, Delhi it is important that the Government should take a serious view and a decision, whether any vehicle particularly Diesel Vehicle (old or new) should be registered in the NCT, Delhi. As an interim measure till next date of posting subject to hearing of all the concerned parties, we direct that Diesel Vehicles of more than 10 years of age as already directed, as well as new diesel vehicle would not be registered in NCT, Delhi. We also direct the Government to take a conscientious decision in regard to not buying any diesel vehicle, whether by the Central or the State Government. The Learned Counsel should take clear instructions in that regard. We direct all the Public Authorities, Corporation, DDA, Police and other Public Department to prepare an Action Plan for phasing out of diesel vehicles particularly the trucks being used by all these bodies. Let this Action Plan be placed before the Tribunal on the next date of hearing. Another very serious aspect is that incidents of waste burning in the open have been brought to the Notice of the Tribunal and they are even widely reported. In furtherance to the Directions, we hereby direct all the

		Corporations, DDA, Cantonments and SHOs of the concerned Police Stations that they would ensure that no waste is burnt in the open and none is disobeying the directions, besides rendering himself liable for punitive action under law and to pay Environmental Compensation as per Section 15 and 16 of NGT, Act, 2010 at the rate of Rs. 5,000/- per event. Similarly, it would also apply to dumping of construction and other waste material in public places and on the river bed. We hereby also direct that builders who keep their dust, sand, cement, brick and other construction materials on the public place and road, as per the directions of the Tribunal already issued, would not be permitted to do so. Besides, seizing such materials under the provision of the Municipal Corporation Act of the Delhi, they would be liable to pay environmental compensation at the rate of Rs. 50,000/- per incident as already directed. Even the construction material which is stored within the building should be covered, and it should be ensured that there is no emission and it does not disperse into the atmosphere. This will also apply to transportation of construction materials. These directions will be applicable to NCR Delhi as afore indicated. All the Authorities may file list of offenders before the next date of hearing. Let all concerned authorities issue public Notice and these directions should be brought into the public domain by the concerned authorities before they take punitive action. In relation to taking of adequate measures for preventing air pollution in schools particularly Government, Corporation Schools, NCT Delhi is directed to submit a proposal for creating green belt,

	converting the ground by grass and installation of air filters in the schools. The DDA, all Bodies including NDMC, Delhi Cantonment Board and Government should also examine the possibilities of sprinkling water. List this matter on 06th January, 2016. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



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

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 414/2015, M.A. NO. 778/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015,
M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A.
NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO.
475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO.
545/2016, M.A. NO. 564/2016, M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO.
690/2016 & M.A. NO. 708/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant:

Mr. Raj Panjwani, Sr. Adv., Salik Shafique and Ms. Divya Sharma, , Adv.

Dr. Sanjay Kulshrestha, Applicant in person

Respondent No. 1:

Ms. Panchajanya Batra Singh, Adv. For MoEF & CC

Mr. Rajiv Bansal, Mr. Kush Sharma and Mr. Keshav Datta, Adv.

Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Adv. for PWD, Delhi Police and Transport Deptt.

Mr. Naginder Benipal, Adv. for Mr. Anil Soni, AAG

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv.

Mr. Rajul Shrivastava, Adv. MPPCB

Ms. Sakshi Popli, Adv. NDMC

Mr. Soumayajit Pani, Adv. for State of Odisha

Mr. Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Adv.

Mr. Raman Yadav, Adv.

Mr. Atul Jha Adv. for State of Chattisgarh

Mr. Devraj Ashok, Adv. for State of Karnataka

Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Adv.

Mr. Balendu Shekhar and Mr. Akshay Abrol, Mr. Eishan Bahuguna, Adv. for EDMC

Mr. Pinky Anand, ASG, Mr. Rajesh Ranjan, Ms. Somya Rathore and Mr. Balendu Shekhar, Adv. for Ministry of RTH and Ministry of Heavy Industries, MoEF

Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Adv. for Andaman & Nicobar Administration

MR. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Adv.

Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv.

Ms. Puja Kalra, Adv. for NDMC, SDMC

GNCTD

Mr. Pragyan Sharma and Mr. Ravi Kantt, Advs. for State of Mizoram
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. S. Vijayanand, Advs. for State of Manipur
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs.
Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Suryanarayan Singh, AAG
Mr. Narnedner Pal Singh, Adv. Ms. Guneet Khehar, Adv. for Mr. Tarunvir Singh Khehar, Adv. for GNCTD
Mr. Jogy Scaria, Adv. for State of Kerala and SPCB
Mr. Raj Kumar, Adv. Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., CPCB
Mr. Mukesh Verma, Adv. for MPCB
Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad Mr. Arun K. Gupta, LO
Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
Mr. Dileep Poolakkot, Adv. for State of Goa
Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
Mr. Jayesh Gaurav, Adv. for JSPCB
Ms. Priyanka Sinha and Mr. Shridhar Sawrup, Advs. for State of Jharkhand
Ms. Varsha Poddar advs. for State of Tripura
Ms Nandini Gore and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd.M. A. No. 172 of 2016
Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
Mr. Sandeep Narain and Ms. Khushboo, Advs.
Ms. Diksha Sharma, Adv. for Mr. Muzzaffr Khand s/o Ayyab Khan
Mr. Shiv Mangal Sharma, AAG, Mr. Adhiraj Singh and Mr. Sarurabh Rajpal, Advs. for Rajasthan PCB
Mr. R. Rakesh Sharma and Mr. M. Samy Adv. for State of Tamil Nadu and TNPCB
Mr. Gaurav Kr. Bansal and Ms. Antima Bazaz, Advs. In MA 264/2016
Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
Mr. V.K. Shukla, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs.
Mr. Karan Grover, Adv. for NHAI
Ms. Taruna A. Prasad, Adv. for MoEF
Mrs. Rani chhbra and Ms. Priyanka Samy, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item Nos. 06 to 09 July 20, 2016 HA + A	<u>MAIN MATTERS</u> In continuation of our order dated 18 th July, 2016 we pass the following further directions for appropriate and effective implementation of the directions issued. 1. We make it clear that deregistration of the diesel vehicles, more than 10 years old shall be complied

	Item Nos. 06 to 09 July 20, 2016	with effectively and without default. However, the deregistration authorities are directed to start deregistration with reference to the oldest of the vehicles, in other words at the first step the vehicles which are more than 15 years old would be deregistered and then gradually other vehicles would be deregistered from 15 years to 10 years respectively. 2. All the vehicles which are deregistered in Delhi/NCR would not be permitted to ply in Delhi/NCR. However, the authorities will issue NOC for such vehicles to be registered outside the Delhi/NCR. We further clarify that in terms of the orders of the Tribunal every State has to identify areas where the dispersion of the air is higher and vehicular density is least, if the States have not done it so far we grant last opportunity to the States and the Union Territories to identify such areas and put them on the respective websites. The RTO, Delhi will issue NOC for transfer of these vehicles only for such areas which are identified by the States. 3. The diesel vehicles which are more than 15 years old and are BS I or BS II compliant shall be scraped and no NOC will be issued for transfer of the vehicles. 4. The vehicles which possess national permit, but are covered under the directions of the Tribunal will also not be permitted to ply in Delhi/NCR. However, they would be permitted to by-pass Delhi and follow the routes directly connecting Haryana and Rajasthan or vice-versa. For instance the heavy

	Item Nos. 06 to 09 July 20, 2016	vehicles are being permitted under the orders of the Tribunal from Panipat and Rewari without entering Delhi. 5. We hereby direct NCT/Delhi to take immediate steps for improving and expanding the mass transportation system. It should introduce proper buses which should preferably be run from destination to destination thus making the travel much easier for the commuters. The buses should be of different kinds, including providing buses to the metro stations. All these buses should be CNG buses or hybrid or electric buses. 6. The DDA is hereby directed to provide space to the DTC and the Police for the purpose of parking of Vehicles, including impounded vehicles. We direct the Chief Secretary, Delhi to take up a meeting with the Commissioner of the Delhi, Vice-Chairmen of the DDA and all the Commissioners of the respective Municipal Corporations, NDMC and Delhi Cantonment Board. Meeting will be held within 1 week from today and the report be submitted to the Tribunal. This would identify the land already given by DDA to the authorities for the purpose of parking to DTC or other authorities for parking of running buses as well as impounded vehicles, it would further identify the sites which are required to be provided for that purpose. The scraping benefit including benefit in purchase of new cars, is under the consideration of the Ministry of Heavy Industries. Let the final view in that behalf be taken

	Item Nos. 06 to 09 July 20, 2016	and the same should be widely published to provide new incentives to the public to scrap their old vehicles. It has been termed by the Ministry as “Scraping Policy”. Learned counsel appearing for the NCT/Delhi has brought to our notice that to orders is needed effectively implement the directions of the Tribunal in relation to the use of pressure horns and motor bikes being driven with intolerable sound which are violative of the prescribed norms. Besides challaning the vehicles under the Motor Vehicles Act, action is also to be taken for violation of the conditions of the registration that is violating the original conditions of the vehicle in which it was registered and the fine provided there is more than Rs. 2000, besides challaning the vehicles for traffic offence. We find that the traffic police should implement the directions and take the above action which is in accordance with law, with a greater vigour and sincerity. We further direct that for generating the undue intolerable sound, in violation of the law, also results in noise pollution and is covered under the prescribed norms in the Noise Pollution Rules which have been enacted under the Environment (Protection) Act, 1986, one of the Scheduled Act of the National Green Tribunal Act, 2010. Therefore we direct that in addition to other actions in accordance with law, such offenders would also be liable to pay Environmental Compensation of Rs. 5,000 per violation on the basis of “Polluter Pays Principle”. Let this fine be also collected by the Traffic police and be deposited in a separate account that would be maintained by the Delhi Police or the NCT Delhi as the Chief Secretary of Delhi may decide. In the event of default of the payment of the Environmental

	Item Nos. 06 to 09 July 20, 2016	Compensation, the traffic authority is at liberty to approach the Tribunal by issuing notice to such violator to be present before the Tribunal for the offence. List these matters for hearing on 28th July, 2016. In the meanwhile, liberty is granted to the States to file their response. <u>M.A. No. 414 of 2015</u> In view of the order passed by us above this Application does not survive for consideration. Accordingly, M.A. No. 414 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 778 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 778 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1086 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 1086 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1313 of 2016</u> In view of the order passed by us above this

	Item Nos. 06 to 09 July 20, 2016	Application does not survive for consideration. Accordingly, M.A. No. 1313 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 156 of 2016</u> This is an application with reference to the exemption to be granted to vintage and antique vehicles from the orders of the Tribunal dated 26th November, 2014. Learned counsel appearing for the main Applicant and NCT of Delhi submit that they have some objections in regard thereto. List this matter for hearing on 28th July, 2016. <u>M.A. No. 172 of 2016</u> At the request of the Learned counsel appearing for the parties the matter is adjourned to 28th July, 2016. <u>M.A. No. 211 of 2016</u> Nobody is present on behalf of the Applicant; none was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 211 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 253 of 2016</u> We have heard the Learned counsel appearing for the parties. The Application is allowed limited to the extent that vehicles would be permitted to be registered with the RTO office of Delhi but these buses would not run in NCT of

	Item Nos. 06 to 09 July 20, 2016	Delhi but would ply between its destination point to Kathmandu. To that extent this Application is allowed subject to just exception. Accordingly, M.A. No. 253 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 268 of 2016</u> This Application is filed for postponement of the date of hearing of the matter. The matter is already heard. Therefore this Application does not survive for consideration as having become infructuous. Accordingly, M.A. No. 268 of 2016 stands disposed of without any order as to costs. <u>M.A. Nos. 358 of 2016 and 545 of 2016</u> Prayers in these Applications to run Buses from Meerut to Bulandsahar via Hapur. We allow the prayers of the applicants. But we make it clear that these buses will not enter into Delhi, that is Ghaziabad, Faridabad, Gurgaon, Greater NOIDA and Sonipat. Accordingly, M.A. Nos. 358/2016 and 545/2016 stand disposed of without any order as to costs. <u>M.A. No. 360 of 2016</u> We have heard the Learned counsel appearing for the parties. We clarify that the environmental compensation would be imposed on slab basis. We find that the prayer made in this Application is just and fair and if the offending construction in plot upto 100sq.mt. the

	Item Nos. 06 to 09 July 20, 2016	environmental compensation would be Rs. 10,000/-, if the offending construction is in more than 100 sq. mtr. But upto 200sq.mt., the environmental compensation would be Rs. 20,000/-, if the offending construction is in a plot of more than 200 sq. mt. but less than 500sq. mt. the environmental compensation would be Rs. 30,000/-, while the offending construction is in a plot area of more than 500 sq.mt. the environmental compensation would be Rs. 50,000/- as already directed by the orders of the Tribunal. Wherever the constructed area is more than 20,000 sq. mtr. The environmental compensation would be Rs. 5 Lakhs. This rate will operate prospectively. Accordingly, M.A. No. 360 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 406 of 2016</u> We have heard the Learned counsel appearing for the parties. We direct that all the Authorities in NCT of Delhi including DDA, NDMC, All Municipal Corporation of Delhi and Delhi Cantonment Board that they would ensure that there is no burning of any kind of waste in open or otherwise and for every default occurrence the person would be liable to pay Rs. 5000 /- as environmental compensation to the Officer of the respective Agencies. Even the matter could be reported to Delhi Police also. Accordingly, M.A. No. 406 of 2016 stands disposed of without any order as to costs.

	Item Nos. 06 to 09 July 20, 2016	<u>M.A. No. 567 of 2016</u> List this matter for arguments on 28th July, 2016. <u>M.A. No. 708 of 2016</u> This application is for placing additional documents on record and has been filed on behalf of the Department of Heavy Industries, Government of India. There is no objection to these applications, the Application is allowed subject to just exception. Let the documents be furnished to all the parties appearing in the case during the course of the day. Accordingly, M.A. No. 708 of 2016 stands disposed of without any order as to costs. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore) ,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)

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

(M.A. NO. 284/2015, M.A. NO. 755/2016, M.A. NO. 756/2016, M.A. NO. 766/2016, M.A. NO. 847/2016, M.A. NO. 848/2016, M.A. NO. 924/2016, M.A. NO. 892/2016, M.A. NO. 974/2016, NO. 979 /2016, M.A. NO. 983/2016, M.A. NO. 984/2016, M.A. NO. 967/2016, M.A. NO. 986/2016 & M.A. NO. 1050 /2016)

In

Original Application No. 21/2014

AND

M.A. NO. 156/2016

IN

Original Application No.21 OF 2014

AND

Original Application No. 21/2014

(Only Notices)

AND

Original Application No. 21/2014

(M.A. NO. 172/2016, M.A. NO. 567/2016, M.A. NO. 690/2016, M.A. NO. 783/2016, M.A. NO. 949/2016, M.A. NO. 950/2016, M.A. NO. 1037/2016, M.A. NO. 1038/2016, M.A. NO. 1078/2016, M.A. NO. 1079/2016, M.A. NO. 1080/2016, M.A. NO. 1091/2016, M.A. NO. 1092/2016, M.A. NO. 1082/2016, M.A. NO. 1083/2016, M.A. NO. 1142/2016, M.A. NO. 1134/2016, M.A. NO. 1135/2016, M.A. NO. 1136/2016, M.A. NO. 1137/2016, M.A. NO. 1138/2016, M.A. NO. 1155/2016, M.A. NO. 1162/2016, M.A. NO. 1180/2016, M.A. NO. 1184/2016, M.A. NO. 1185/2016, M.A. NO. 1186/2016, M.A. NO. 1187/2016, M.A. NO. 1188/2016, M.A. NO. 1189/2016, M.A. NO. 1190/2016, M.A. NO. 1191/2016, M.A. NO. 1192/2016, M.A. NO. 1209/2016 & M.A. NO. 1210/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

And

Original Application No. 181/2013

(M.A. No. 824/2015)

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Omesh Saigal Vs. Govt. of NCT of Delhi & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present: **Applicant :** Ms. Divya Sharma and Mr. Sanjay Upadhyay, Advs.

Respondent No. 2 & 4 Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC

Respondent No. 5 & 6 Mr. Balendu Shekhar, Advs. For EDMC.
Ms. Panchajanya Batra Singh, Adv. for Ministry of Environment & Forest, & CC
Mr. Anil Soni, AAG for State of Punjab and Mr. Naginder Benipal, Advs.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam
Ms. Taruna A. Prasad, Adv. for MoEF
Mr. Rajiv Bansal, Mr. Kush Sharma, Mr. Anurag Tripathi and Mr. Anirudh Chadha, Advs. (DDA)
Ms. Nishe Rajen Shonker and Mr. Gajendra Khichi, Adv. for State of Kerala and Mr. Joggy Scaria, Adv.
Mr. Sanjeev Ralli and Mr. Ravin Kapur, Advs. for Chandni Chowk Sarv Vyapar Mandal - Intervener
Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. for NOIDA & Greater NOIDA.
Mr. Anurag Kumar, Adv. for Ms. Sakshi Popli, Adv. for NDMC
Mr. D.P. Singh, Ms. Sonam Gupta and Ms. Ishita Jain, Advs.
Mr. A.K. Prasad and Mr. Panshul Chandra, Advs. For MoUD/PNG & Respondent No.2-6
Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv. For State of Bihar and BSPCB
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Gaurav Dubey, Adv. for K-2
Mr. Sarthak Chaturvedi, and Mr. Shubham Jaiswal, Advs. for Andman and Nicobar Admin
Mr. Sarthak Chaturved, Mr. Rohit Pandey and Mr. D.N. Tripathi, Adv. for Andaman Nicobar Administration
Mr. Rajul Shrivastav, Advs. For MPPCB
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA, CPCB
Mr. Mukesh Verma, Advs. for MPCB & State
Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Ashish Rana, Adv.
Ms. Arushi Khandelwa, Adv. for Bio diesel Association of India
Mr. Anoop Verma, Adv.
Mr. Narayan Krishan and Ms. Rasna Kalkat, Advs.
Mr. Natasha Sahrawat and Ms. Khushboo Bari, Advs.
Mr. Yatendra Sharma, Mr. Sachin Sharma and Mr. Satyavrat Sharma, Adv.

Mr. Edward Belho, Mr. K. Luikang Michael and Ms. Elix Gangmei, Advs. For State of Nagaland and Pollution Control Board

Mr. Shiv Mangal Sharma, Adv. with Mr. Adhiraj Singh and Mr. Saurabh Rajpal, Adv.

Ms. M.S. Priyanka Sinha, Adv. for State of Jharkhand

Mr. Atul Jha, Adv. For State of Chhattisgarh

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Mr. Sandep Yadav, Mr. Saurabh Sachdeva and Mr. Arun Tewatia, Adv., Adv. for Haryana, HSPCB, MCF, MCG & HUDA

Mr. Sanjeev Kr. Sharma, Mr. Jeetendar Kr. Jha and Ms. Roopani Rai, Adv.

Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, Adv. For State of Sikkim & Pollution Control Board

Mr. Pradeep Misra and Mr. Daleep Kumar Dhyani, Adv. for UPPCB

Mrs. Rani Chhabra and Ms. Priyanka Sony, Adv.

Mr. Darpan Wadhwa and Mr. Sarad K. Sunny, Adv.

Mr. Abhishek Yadav, Adv. for State of U.P.

Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar, Adv. For State of Andhra Pradesh

Mr. Raman Yadav, Adv. for Ghaziabad Development Authority

Ms. Alpna Poddar, Adv. with Mr. Bhupender Kumar, LA, CPCB

Mr. R. Rakesh Sharma, Adv. for State of Tamil Nadu & TNPCB and Mr. Marutha Samy, Adv.

Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. for PWD, Transport Deptt. and Delhi Police with Mr. Dinesh Kr. Gupta DCP Traffic

Mr. Abhishek Atrey, Adv. For MoEF & CC

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv. For State of West Bengal

Ms. Puja Kalra, Adv. For SDMC and NDMC

Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.

Mr. Balendu Shekhar, Adv. For MoRTH and Ministry of Heavy Industries and Highway

Mr. Balendu Shekhar, Adv. For Ministry of Road & Transport and EDMC

Mr. Aman Shukla and Mr. Santosh Rebello, Adv. for State of Goa & PCB

Mr. Devraj Ashok, Adv. for State of Karnataka & KSPCB

Mr. V.K. Shukla, Adv. for State of M.P.

Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Adv. for Transport Deptt. & GNCTD

Mr. Sumit Kishore, Adv. for PNGRB

	Date and Remarks	Orders of the Tribunal
	Item No. 19 to 27 November, 28, 2016 ss	We have heard the Learned Counsel appearing for the Ministries, NCT, Delhi, State of Haryana, State of Pubjab, State of Rajasthan, State of Uttar Pradesh, DDA and Delhi Police and all other learned counsel. Vide order dated 07th April, 2015 and other orders where various directions have been passed with regards to prohibition for plying of vehicles diesel older than 10 years and petrol older than 15 years, Delhi Police had made some attempt to comply with the orders. However, due to non-availability of space and other difficulties faced, they were not able to keep the vehicles seized. Various other directions were passed by the Tribunal to ensure reduction of pollution of ambient air in Delhi resulting from vehicular pollution. At the cost of repetition and to put the matters beyond controversy we further issue the following directions:- 1. The Ministry of Heavy Industries has assured the Tribunal that it was in the process of framing policy for scrapping of old vehicles in consonance with the directions of the Tribunal. This policy was to provide not only methodology for scrapping of vehicles but even incentives for that purpose to car owners. Unfortunately, nearly a year has gone now but the Ministry has not produced any policy to that effect before the Tribunal. According to the Learned Counsel, matter has been taken up with the Finance Ministry. We direct that the Learned Counsel appearing for the Ministry of Heavy Industry would take clear instructions in regard to the entire policy

	Item No. 19 to 27 November, 28, 2016 ss	as well as implementation thereof before the next date of hearing. 2. All the State Government i.e. State of Punjab, State of Haryana, State of Uttar Pradesh, State of Rajasthan and the concerned State Secretaries would discuss with the Chief Secretary of Delhi to identify the land for parking the seized vehicles older than prescribed age immediately on the border of NCR and NCT, Delhi. 3. This meeting should take place immediately and the Learned Counsel appearing for the respective States and NCT, Delhi would place the result/minutes of the meeting before the Tribunal by the next date of hearing. The Learned Counsel appearing for the DDA has submitted that as of now and after deliberation with all concerned stakeholders, two sites have been identified at Narela and Rohini which can be temporarily provided to Delhi Police for parking of such vehicles that are seized or are otherwise required to be parked for offending the laws and particularly upon the orders of the Tribunal. We, however make it clear that giving of such site of Delhi Police would be purely on temporary basis. Delhi Police would not raise any permanent structure on the land in question and they would pay amount to DDA as per the policy of the DDA. As far as the first two conditions are concerned, these are ex-facie reasonable and even necessary. However, since no title in the property is being transferred to the Delhi Police, there is no question of paying any charges to DDA for transfer

	Item No. 19 to 27 November, 28, 2016 ss	of such land whether under the Land Revenue Act or otherwise. However, it would be appropriate that Delhi Police Pay charges to DDA for parking on per car basis. 4. We clarify that vehicles plying on the roads or otherwise found to be polluting are not challaned merely under the Motor Vehicles Act but also under the provisions of the Environment (Protection) Act, 1986 and upon orders of National Green Tribunal Act, 2010. The vehicles seized by the Police for violation of the directions of the Tribunal are those not seized in terms of the Motor Vehicle Act but specific orders of the Tribunal. They cannot be released and ought not to be released unless they pay environmental compensation as well as carriage and parking charges demanded by Delhi Police. 5. The Environmental Compensation has already been identified as Rs. 5,000/- for each violation. Besides this, the crane charges would be declared by the Delhi Police within a week from today and put up on Notice Board including the parking charges of the land in question. DDA would be entitled 50% of the parking share from Delhi Police. 6. We reiterate that these are not only the offences under the Motor Vehicles Act and we do hope that all concerned would take note thereof that vehicles are being seized under the provisions of the above two said Acts and under the orders of the National Green Tribunal in relation to environmental offences/violation. 7. We do not appreciate that neither the corporation

	Item No. 19 to 27 November, 28, 2016 ss	and nor Delhi Police so far has lifted a single vehicle from those which are not even pliable or are standing on rims instead of tyres, have no engine or otherwise in violation of the orders of the Tribunal and are left parked on the public roads or public places, thereby crating congetion. 8. Let the concerned Corporation and Delhi Police jointly carry out action plan and ensure that all such vehicles are lifted to avoid traffic congestion or otherwise for recovery of environmental compensation, as they gather nothing except dust which gets blown into the air thereby polluting the ambient air of NCT, Delhi. 9. The Delhi Police as well as all other Police of the concerned States and Corporations would ensure that all the vehicles non-destined for Delhi and are required to take diverted routes, do not enter Delhi and ply in strict compliance of the prescribed standards and do not violate the directions of the Tribunal. In the event of violation, appropriate action shall be taken and these vehicles would be parked at the border places before their entry into NCT, Delhi that would be identified in terms of the above order. 10. All Concerned Authorities shall ensure that deregistration of the vehicles which are plying on the road of Delhi in violation to the order of the Tribunal should be given effect to immediately and report be submitted to the Tribunal. 11. The DDA, Police Authorities and the Corporations will hold a meeting within this week and identify

	Item No. 19 to 27 November, 28, 2016 ss	other sites which can be temporarily provided as short term measure to Police or can be transferred by DDA to sort out problem of parking of vehicles as well as free flow of traffic. <u>M.A. No. 974 of 2016</u> Both these applications have been filed on behalf of M/s. Metro Waste Handling Private Limited praying that the eight vehicles bearing chassis numbers respectively as follows: 1. MB1CTCHD3GEWW0746 2. MB1CTCHD7GEWW1124 3. MB1CTCHD9GEWW1125 4. MB1CTCHDXGEBV1238 5. MAT716013G2H19105 6. MAT716013G2H18911 7. MB1A3CHD9GRBP1495 8. MB1CTCHD8GEBV1237 be permitted to be registered in Delhi. All the eight vehicles proposed to be registered now are BS-IV compliant. Six vehicles therefrom are to be operated in South Delhi Municipal Corporation as being replacement of old vehicles which the company has already obtained NOC from the Transport Department for their transfer to Gorakhpur area. In view of the above we dispose of both these applications with the following directions:- 1. The six vehicles which have to operate in South Delhi Municipal Corporation area would be registered by the Transport Department only when the NOC for transfer of old vehicles as aforesaid and

	Item No. 19 to 27 November, 28, 2016 ss	secondly, its certification at Gorakhpur is also submitted before them. 2. The Managing Director of the Company will file a personal affidavit that the said old six vehicles are transferred and being used at Gorakhpur and will not be brought back to Delhi under any circumstances. In fact, steps would be taken for condemnation in accordance with law; and all these vehicles being registered in Delhi are BS-IV compliant. The affidavit of the Managing Director will also state that the company does not own any diesel vehicle other than the said old six vehicles which are more than 10 years old in Delhi being moved out of Delhi. The Affidavit would be filed before the Registrar Transport Department as well as before the NGT Tribunal. We also permit registration of two other vehicles to be plied in the area of NDMC and one Hue Loader as described above. With the above directions, M.A. No. 974 of 2016 and M.A. No. 1180 of 2016 stand disposed of. No order as to cost. <u>M.A. No. 983 of 2016 and M.A. No. 984 of 2016</u> This application is for permitting registration of commercial diesel operated vehicles which is Euro-IV with Chassis No. MSC2121CFFP019786. It is stated that so far as the Applicant is using private vehicle provided by M/s. Bharat Benz for transporting/supplying the petroleum product of Indian Oil Corporation. For the reason stated in the application we permit

	Item No. 19 to 27 November, 28, 2016 ss	registration of the above vehicle of Chassis No. MSC2121CFFP019786 subject to the condition that it is Euro-IV and the sole proprietary of the company shall file personal affidavit that he does not own any diesel vehicle plying in NCT, Delhi which is more than 10 years old. Affidavit shall be filed before the Tribunal as well as Transport Authority. With the above directions, both these Miscellaneous Application Nos. 983 of 2016 and 984 of 2016 stand disposed of. No order as to cost. <u>M.A. No. 979 of 2016</u> The Applicant submits that the new vehicle bearing chassis no. MAT716013G2H18911 be ordered to be registered as it is only to be used for the purpose of carriage of petroleum products from the company depot to fuel station of the Applicant. Application is allowed subject to the following condition that vehicle is BS-IV Compliant. Affidavit of the Managing Director will be filed stating that the company does not own any diesel vehicle which is 10 years old. Affidavit would be filed before the Registrar Transport Department as well as before the Tribunal. However, registering Authority of the Transport Department would register the truck only when it is actually provided with dismantling and scrapping certificate of vehicle bearing registration DL1GB5951 along with the photograph of the dismantled vehicle. With the above directions M.A. No. 979 of 2016 stand disposed of.

	Item No. 19 to 27 November, 28, 2016 ss	<u>M.A. No. 1180 of 2016</u> The Learned Counsel appearing for the Applicant wishes to withdraw this application with liberty to file appropriate application, if necessary. Application is dismissed as withdrawn. Liberty as prayed is granted. <u>M.A. No. 1037 of 2016 and M.A. No. 1038 of 2016</u> Issue Notice to the Managing Director of Hindustan Petroleum. Notice returnable on 09th January, 2016. <u>M.A. No. 755 of 2016, M.A. No. 756 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924 of 2016, M.A. No. 986 of 2016, M.A. No. 1050 of 2016 & M.A. No. 1155 of 2016.</u> These applications are allowed to the limited extent that the buses shall be permitted to ply beyond Meerut and Buland Shahar in the rural areas subject to the following conditions:- 1. The affidavit would be filed by the Managing Director/Managing Partner/Sole Proprietor stating that they would convert these vehicles into CNG as and when the source of fuel is available. 2. They would maintain the vehicle properly and once they cross age more than 15 years old then those vehicles would be scrapped and certificate to that effect shall be given. The Learned Counsel appearing for the Uttar Pradesh submits that the Board would be taking up the matter in as much as in principle the scheme for adopting CNG as fuel source in those areas has been approved by the Government.

	Item No. 19 to 27 November, 28, 2016 ss	With the above terms, M.A. No. 755 of 2016, M.A. No. 756 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924 of 2016, M.A. No. 986 of 2016, M.A. No. 1050 of 2016 & M.A. No. 1155 of 2016 stand disposed of. No order as to cost. <u>Main matter</u> Issue Notice to DSIDC to be present on the next date of hearing. List these matters tomorrow i.e. on 29th November, 2016. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,JM (Raghuvendra S. Rathore) ,EM (Bikram Singh Sajwan) ,EM (Ranjan Chatterjee)

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay Ms. Upama Bhattacharjee, and
Mr. Saumitra Jaiswal, Advs.
Mr. Shivam Bajaj., Adv in M.A. No. 1384
Mr. Rajneesh Bhardwaj and Mr. Raj Kishan and Mr.
Rahul Sharma and Mr. Tarun, advs
Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and
Ms. Ritwick Nanda, Adv
Mr. S.M. Ali, Special Sec., Dr. Anil Kumar, Director, Mr.
Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Arjun S. adv.
Mr. Gaurav Dubey, Adv.
Mr. Amit Dubey, Mr. Karan Cjawla Adv.
Mr. Gunyan S. Jain, adv
MR. Ankit Tyagi, Adv.
Mr. Udaibir Singh Kochar Adv.
Mr. Debarshi Bhuyan Adv
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal and Ms.
Sikha Sandhu Mr. Adhiraj Singh Rajwat, Adv. Mr. R. K.
Gorver Sec. Environment Rajsastha

Mr. Bhanwar Pal Singh Jadon and Dr. Sandeep Singh, Adv.
 Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Advs.
 Mr. Vijay Sondhi, Ms. Cauveri Birbal, Mr. Sarvajeet Kumar Thakur, Advs.
 Mr. Soumyajit Pani, Adv with Mr. Chittaranjan Singh, Advs.
 Dr. Sandeep Singh and Mr. Vinay Pal, Advs.
 Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Mr. Anshuman Srivastava, Adv.
 Mr. Krtika Sachdeva and Mr. Mukesh Kumar, Advs
 Mr. Raman Yadav and Ms. Varnita Rastogi, Advs. for GDA
 Mr. Nikhil Singhav, Ms. Nikita Pandey and Mr. Mohit Seth and Ms. Kanak Bose, Advs.
 Ms. Monica Lakhanpal, Applicant in person and Mr. Vaibhav Gaggar and Ms. Sumedha Darg, Advs.
 Mr. Aman Sarma and Mr. S.S. Rebello, Advs.
 Mr. Amit Agarwal, Ms. Asha Basu Adv. for WBPCB
 Ms. Deep Shikha Bharati, Adv. for MoEF
 Mr. Shuvodeep Roy Adv. for State of Assam
 Mr. V. K. Shukla and Ms. Vijay Laxmi, Advs. for State of M.P.
 Mr. Pradeep Misra, Mr. Daleep Dhyani, Advs. for UPPCB
 Mr. Sumit Kishore, Adv. for PNGRB
 Ms. Priyanka Sinha, Ms. Ajita Tandon Adv.
 Mr. Rajul Shrivastava, Adv. for MPPCB
 Mr. Kshitiz Ahuja, Adv.
 Mr. Gaurav Dubey, Adv.
 Mr. Ajay Marwah for HPPCB
 Mr. D. K. Thakur, AAG for State of Himachal Pradesh
 Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv for UPPCB
 Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Advs. for DTC
 Mr. Devraj Ashok, Adv.
 Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Advs.
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini Yadav Advs. for State of West Bengal
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Mr. Mukul Singh, Adv. for MoEF.
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Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

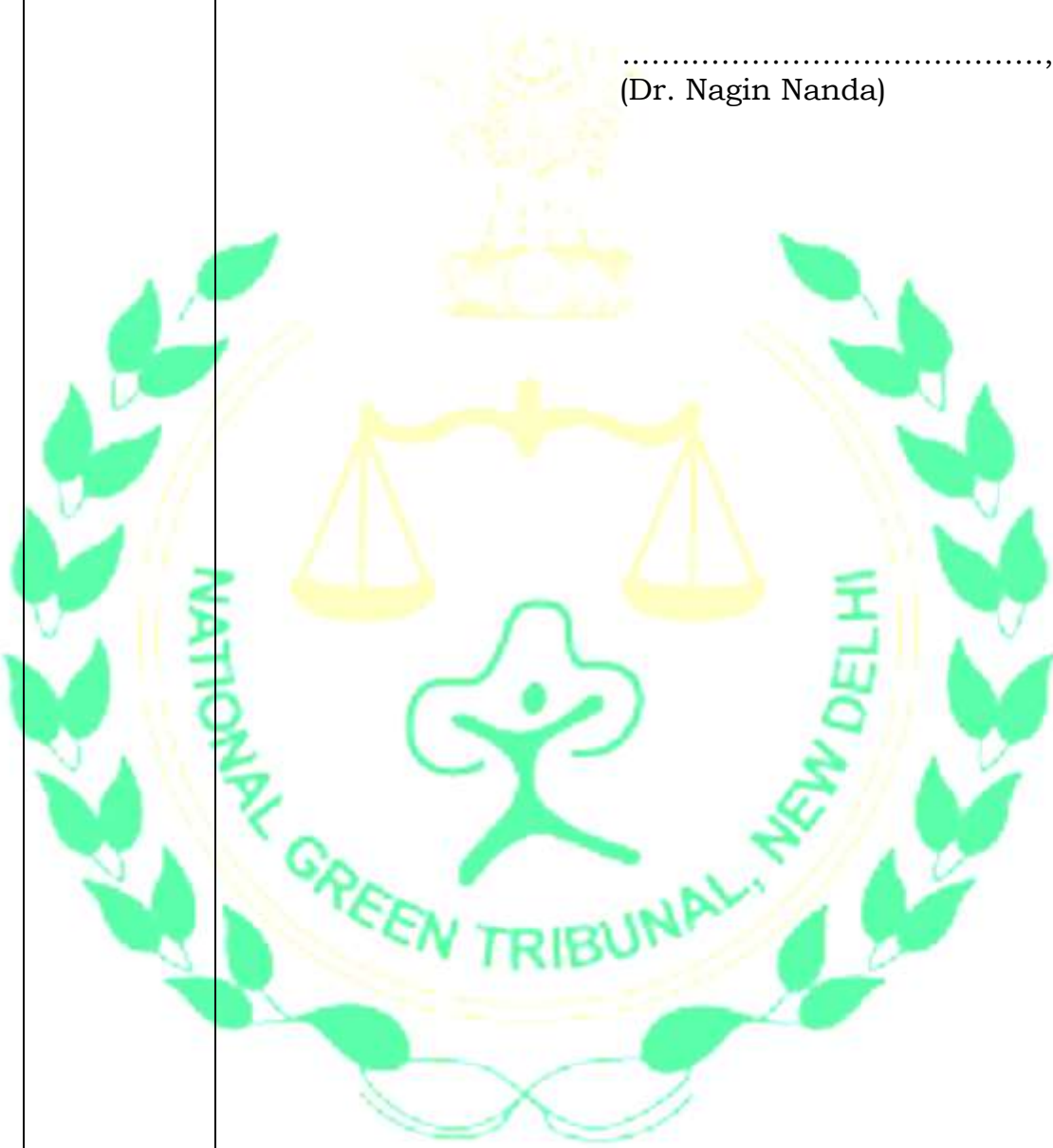
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu g/m^3$ and $PM_{2.5}$ exceeds $600 \mu g/m^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 681 of 2018

IN THE MATTER OF:

News Item Published In 'The Times of India' Authored by Shri. Vishwa Mohan
Titled
"NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around
August 15"

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

Dated: 08th October, 2018.

ORDER

1. Proceedings in this matter have been initiated on the basis of a newspaper item dated 03.08.2018 in the Times of India under the heading "*NCAP with multiple timelines to clean air in 102 cities to be released around August 15*"¹. According to the news item, the National Clean Air Programme (NCAP) proposes to reduce pollution in 102 cities where standards of air pollution are in excess in the next 10 years- 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years.
2. The question that arises for consideration is whether the timeline of 10 years for bringing down pollution levels is in accordance with the mandate of law requiring pollution free environment especially when there is imminent threat to human health as a result of such pollution. According to a survey, 15,000 persons died prematurely in Delhi in the year 2016. Delhi was ranked as third in the list of cities reporting most deaths due to air pollution. Premature deaths in

¹ <https://timesofindia.indiatimes.com/india/ncap-with-multiple-timelines-to-clean-air-in-102-cities-to-be-released-around-august-15/articleshow/65254122.cms>

Mumbai, Kolkata, Bangalore and Chennai are reported to be between 5,000-10,000 in 2016.²

3. 102 cities have been identified as 'Non-attainment cities'. Non-attainment city is the one which does not meet the National Ambient Air Quality Standards (NAAQS). The said standards are prescribed under Section 16 (2) (h) of Air (Prevention and Control of Pollution) Act, 1981, (Air Act, 1981) vide Notification dated 18.11.2009 by the Central Pollution Control Board (CPCB).
4. Serious concerns have been expressed in the last four decades about the need to restore the standards of the air quality, in view of the adverse effect of air pollution on public health. Section 20 of the Air Act, 1981 provides for directions for ensuring standards for emission from automobiles by the State Pollution Control Boards. Section 21 of the Air Act, 1981 requires Consent to Establish (CTE) or operate an industrial plant in air pollution control areas. Conditions for such grant include installation of equipments for control of air pollution, use of specified chimneys and such other conditions as may be necessary. Section 22 provides for control of industrial pollution. State Boards can also seek injunction against air pollution from any source under Section 21-A. Section 31-A empowers a Pollution Board to give directions to close an industrial activity on the ground of pollution. It is, however, well known that the statutory mechanism under the Air Act, 1981 has not been successful in controlling air pollution. The result is that air pollution has been subject matter of consideration by the Hon'ble Supreme Court and other Courts as well as this Tribunal.

²<https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

5. Directions have been issued by the Hon'ble Supreme Court for control of vehicular pollution³, industrial and construction sector pollution⁴, power sector pollution⁵ and agricultural sector pollution⁶. This Tribunal also dealt with some of such issues.⁷ CPCB has also issued directions under Section 18(1)(b) of the Air Act, 1981 vide letter dated 29.12.2015 regarding prevention, control or abatement of air pollution and improvement of ambient air quality⁸.
6. A Comprehensive Action Plan (CAP) for air pollution control for NCR was prepared in pursuance of order of the Hon'ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and DPCC on 05.04.2017.⁹ The said plan also provides for enforcement of Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017¹⁰. The GRAP envisages specific steps for different levels of air quality such as improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns,

³ M.C. Mehta v. Union of India (1985)2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 3 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

⁴ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 235, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2SCC 431, Mohd. Haroon Ansari v. District Collector (1998) 6 SCC 60, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 4 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors.(2013) 4SCC 575 , M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000)6 SCC 213

⁵ Consumer Education and Research Centre v. Union of India (1995)3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2SCC 539

⁶ Arjun Gopal and Ors v. Union of India and Ors (2017) 16 SCC 280, Dr. B.L Wadhwa v. Union of India and Ors (1996) 2 SCC 594

⁷ Vardhman Kaushik v. Union of India and Ors. O.A no. 21 of 2014, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors, O.A No. 118 of 2013, Satish Kumar v. Union of India and Ors, O.A. No. 56 (T_{HC}) OF 2013, Smt. Ganga Lalwani V. Union of India and Ors. O.A No. 451 of 2018

⁸ p. 38, <http://envfor.nic.in/sites/default/files/NCAP%20with%20annex-ilovepdf-compressed.pdf>

⁹ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

¹⁰ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

control of generator sets, open burning, open eateries, road dust, construction dust, etc.

7. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes stopping entry of trucks, stopping construction activities, odd and even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanised cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.¹¹

8. A chamber meeting was held in this Tribunal on 05.09.2018 to review the situation. The same was attended by all the Members of the Tribunal, representatives of CPCB, Ministry of Road Transport and Highways (MoRTH), Ministry of Petroleum and Natural Gas, Ministry of Environment, Forest and Climate Change (MoEF&CC), Ministry of Agriculture, Cooperation and Farmers Welfare, Ministry of Heavy Industries, States of Haryana, Punjab, Uttar Pradesh and Rajasthan, NCT of Delhi, IIT Delhi, IIT Kanpur and NEERI. In the said meeting, presentation was given by CPCB to the effect that 102 cities have been declared as “non-attainment” cities based on study of data from 2011-2015 and directions were issued by the CPCB to concerned States to

¹¹ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>
<https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-death-of-15-000-people-study-1883022>

frame city specific action plans. 73 such plans were received. 36 were finalized. 37 are pending. 29 are yet to be submitted.

9. Under the National Ambient Air Quality Monitoring Programme (NAAQM) of the CPCB, renamed as National Air Quality Monitoring Programme (NAMP), air quality data is compiled with reference to notified air standards. Four air pollutants viz. Sulphur Dioxide (SO₂), Oxides of Nitrogen as NO₂, Suspended Particulate Matter (PM₁₀) and fine Particulate Matter (PM_{2.5}) have been identified for regular monitoring at all the locations.¹² In addition to this, there are hundred and one (101) real-time Continuous Ambient Air Quality Monitoring stations (CAAQMS) in 57 cities monitoring 08 pollutants viz. PM₁₀, PM_{2.5}, SO₂, NO_x, Ammonia (NH₃), Carbon Monoxide (CO), Ozone (O₃) and Benzene. PM₁₀ are inhalable coarse particles, which are particles with a diameter between PM_{2.5} and 10 micrometers (µm) and PM_{2.5} are fine particles with a diameter of 2.5 µm or less. Particulates are the deadliest form of air pollutant due to their ability to penetrate deep into the lungs and blood streams unfiltered. The smaller PM_{2.5} are particularly deadly as they can penetrate deeper into the lungs.
10. As already noted, there are 102 non-attainment cities where the air quality is worse than National Ambient Air Quality Standards consecutively in the last five years. The number of cities has increased from 94 identified earlier under the National Air Quality Monitoring Programme (2011-15). The highest number of cities are in Maharashtra (17) followed by Uttar Pradesh (15), Punjab (9), Himachal Pradesh (7), Odisha and Madhya Pradesh (6 each), Assam, Andhra Pradesh and Rajasthan (5 each), Karnataka (4), Bihar, Chhattisgarh and Telangana (3 each), Gujarat, Jammu and Kashmir, Nagaland and Uttarakhand (2 each) and Jharkhand, Delhi, Chandigarh, Meghalaya, Tamil Nadu and West Bengal (1 each).

¹² <http://envfor.nic.in/sites/default/files/NCAP%20with%20annex-ilovepdf-compressed.pdf>

11. The list of 102 cities identified by CPCB with status of parameters exceeded and major sources of pollution are as follows:

State Sl. No	State	Cities Sl. No	Cities	Status	Major Sources of Pollution
1	Andhra Pradesh	1	Guntur	PM10	i. Vehicular Emissions. ii. Road Dust/Re-suspension of dust and other fugitive emission. iii. Air Pollution from Bio-Mass Burning iv. Industrial Air Pollution. v. Air Pollution from Construction and Demolition Activities. vi. DG sets vii. LPG instead of coal in restaurants/ dhabas/ road side eateries.
		2	Kurnool	PM10	
		3	Nellore	PM10	
		4	Vijaywada	PM10	
		5	Vishakhapatnam	PM10	
		6	Guwahati	PM10	
		7	Nagaon	PM10	
2	Assam	8	Nalbari	PM10	
		9	Sibsagar	PM10	
		10	Silchar	PM10	
	Bihar	11	Gaya	N.A	vii. LPG instead of coal in restaurants/ dhabas/ road side eateries.
		12	Patna	N.A	
		13	Muzzafarpur	N.A	
3	Chandigarh	14	Chandigarh	PM10	
4	Chhattisgarh	15	Bhillai	PM10	
		16	Korba	PM10	
		17	Raipur	N.A	
		18	Delhi	PM10, NO2	
5	Delhi	18	Delhi	PM10, NO2	
6	Gujarat	19	Surat	PM10	
		20	Amedabad	N.A	
		21	Baddi	PM10	
		22	Damtal	PM10	
		23	Kala Amb	PM10	
7	Himachal Pradesh	24	Nalagarh	PM10	vii. LPG instead of coal in restaurants/ dhabas/ road side eateries.
		25	Paonta-Sahib	PM10	
		26	Parwanoo	PM10	
		27	Sunder Nagar	PM10	
8	Jammu & Kashmir	28	Jammu	PM10	
		29	Srinagar	N.A	
9	Jharkhand	30	Dhanbad	PM10	
10	Karnataka	31	Bangalore	PM10	
		32	Devanagere	PM10	
		33	Gulburga	PM10	
		34	Hubli-Dharwad	PM10	
		35	Bhopal	PM10	
		36	Dewas	PM10	

State Sl. No	State	Cities Sl. No	Cities	Status	Major Sources of Pollution
11	Madhya Pradesh	37	Indore	PM10	i. Vehicular Emissions. ii. Road Dust/Re-suspension of dust and other fugitive emission. iii. Air Pollution from Bio-Mass Burning iv. Industrial Air Pollution. v. Air Pollution from Construction and Demolition Activities. vi. DG sets. vii. LPG instead of coal in restaurants/ dhabas/ road side eateries.
		38	Sagar	PM10	
		39	Ujjain	PM10	
		40	Gwalior	N.A	
		41	Akola	PM10	
		42	Amravati	PM10	
		43	Aurangabad	PM10	
		44	Badlapur	PM10, NO2	
		45	Chandrapur	PM10	
		46	Jalgaon	PM10	
		47	Jalna	PM10	
12	Maharashtra	48	Kolhapur	PM10	
		49	Latur	PM10	
		50	Mumbai	PM10	
		51	Nagpur	PM10	
		52	Nashik	PM10	
		53	Navi Mumbai	PM10	
		54	Pune	PM10, NO2	
		55	Sangli	PM10	
		56	Solapur	PM10	
13	Meghalaya	57	Ulhasnagar	PM10, NO2	
		58	Byrnihat	PM10	
14	Nagaland	59	Dimapur	PM10	
		60	Kohima	PM10	
15	Orissa	61	Angul	PM10	
		62	Balasore	PM10	
		63	Bhubneshwar	PM10	
		64	Cuttack	PM10	
		65	Rourkela	PM10	
		66	Talcher	PM10	
		67	Amritsar	N.A	
		68	DeraBassi	PM10	
		69	Gobindgarh	PM10	
		70	Jalandhar	PM10	

State Sl. No	State	Cities Sl. No	Cities	Status	Major Sources of Pollution
16	Punjab	71	Khanna	PM10	i. Vehicular Emissions.
		72	Ludhiana	PM10	ii. Road Dust/Re-suspension of dust and other fugitive emission.
		73	NayaNangal	PM10	iii. Air Pollution from Bio-Mass Burning
		74	Pathankot/Dera Baba	PM10	
		75	Patiala	PM10	iv. Industrial Air Pollution.
		76	Alwar	PM10	
		77	Jaipur	PM10	v. Air Pollution from Construction and Demolition Activities.
17	Rajasthan	78	Jodhpur	PM10	vi. DG sets.
		79	Kota	PM10	
		80	Udaipur	PM10	vii. LPG instead of coal in restaurants/ dhabas/ road side eateries.
18	Tamil Nadu	81	Tuticorin	PM10	
19	Telangana	82	Hydrabad	PM10	
		83	Nalgonda	PM10	
		84	Patencheru	PM10	
		85	Agra	PM10	
		86	Allahabad	PM10	
		87	Anpara	PM10	
		88	Bareily	PM10	
		89	Firozabad	PM10	
		90	Gajraula	PM10	
20	Uttar Pradesh	91	Ghaziabad	PM10	
		92	Jhansi	PM10	
		93	Kanpur	PM10	
		94	Khurja	PM10	
		95	Lucknow	PM10	
		96	Muradabad	PM10	
		97	Noida	PM10	
		98	Raebareli	PM10	
		99	Varanasi	PM10	
21	Uttarakhand	100	Kashipur	PM10	
		101	Rishikesh	PM10	
22	West Bengal	102	Kolkata	PM10, NO2	

12. The above chart shows that major violation of standard is of “PM₁₀” and identified sources are vehicular, industrial, biomass burning, road dust, construction and demolition, DG sets and road side eateries. The action plan proposed by the CPCB¹³ with the timeline is as follows:

Action Plan:				
	Action	Implementati on period (Short/ Mid /Long-term)	Time target for Implement ation	Responsible agency (ies)
Source group	1. Restriction on plying and phasing out of 15 years old commercial diesel driven vehicles.	Mid	Dec. 18	Transport Department
Vehicles	2. Introduction of cleaner fuels (CNG/LPG) for vehicles.	Mid	June,18	Transport Department & Oil companies
	3. Regular checking of vehicular emission and issue of Pollution under Control Certificate (PUC).	Short	March,18	Transport Department & Traffic Police
	4. Good traffic management including re-direction of traffic movement to avoid.	Mid	July, 18	Traffic Police
	5. Ban on registration of Diesel driven auto-rickshaw /Tempo.	Short	April, 18	Transport Department
	6. Promotion and operationalization of E-rickshaw.	Mid	June, 18	Transport Department
	7. Development of Multi-layer parking.	Long	Dec. 18,	MC, UD&HD & District Adm
	8. Retrofitting of particulate filters in diesel driven vehicle.	Mid	Dec. 18	Transport Department
	9. Checking of fuel adulteration	Short	April, 18	District Adm & Oil Company
	10. Monitoring on vehicle fitness.	Short	April, 18	Transport Department & Traffic Police
	11.Periodic calibration test of vehicular emission monitoring instrument	Short	April, 18	SPCB & Transport Department
Road Dust	1. Regular cleaning of road dust.	Short	April, 18	MC

¹³presented by CPCB in chamber meeting at NGT on 05.09.2018

	2. Water spraying on road through tankers	Mid	April, 18	MC
	3. Construction of pucca pavement along the roads.	Long	Dec. 18	MC and Road Construction Department
	4. Tree plantation along the roads.	Long	Aug. 19	Department of Environment and Forest
	5. Development of green belt in open areas, gardens, parks/ community places, schools & housing societies.	Long	Aug. 19	Department of Environment and Forest
	6. Introduction of water fountains at major traffic intersection/ Golambar/circle.	Long	Aug.19	MC
Constructi on activities	1. Covering of construction site.	Short	April, 18	Building Construction Department and MC.
	2. Transporation of construction materials like sand, soil, stone chips etc. in covered system.	Short	April, 18	Transport Department District Adm. & Traffic Police.
	3. Restriction on storage of construction materials along the road.	Short	April, 18	MC
Biomass and garbage burning	1. Restriction on open burning of municipal solid waste, Biomass, plastic horticulture waste etc.	Short	March, 18	MC
	2. Immediate lifting of solid wastes generated from de-silting and cleaning of municipal drains for its disposal.	Short	April, 18	MC
	3. Transportation of municipal solid wastes, construction materials and debris in covered system.	Short	April, 18	MC
	4. Ensuring promotion & use of cleaner fuel for commercial purposes like local Dhaba/eateries	Long	Dec.19	District Adm. & Oil Company
Industries	1. Ensuring installation and operation of air pollution control devices in industries	short	April, 18	SPCB
	2. Ensuring emission standards in industries	short	April, 18	SPCB

	3.Adoption of cleaner technology in brick kilns at five blocks of City Name Viz. city Name Sadar, Danapur, Phulwarisharif, Maner and Fatuha by 31.08.2018	Mid	Aug. 18	SPCB
	4. Shifting of polluting industries,	Long	Dec. 19	SPCB & Industry Department
	5. ban on polluting industries	Short	April, 18	SPCB & Industry Department
Strengthening of AAQ monitoring	1.Installation of four CAAQMS at City Name A. Two CAAQMS stations under CSR funds of CPSU through Central Pollution Control Board at Eco-Park and IGIMS, City Name premise. b. Two CAAQM stations under State Govt. financial assistance	Mid	Aug.18	SPCB
	2. Source appointment study	Mid	Dec. 18	SPCB
Public Awareness	1.Issue of advisory to public for prevention and control of air pollution	Short	April, 18	SPCB & SDMA
	2.Involvement of school and other academic institution in awareness program	Mid	Aug. 18	SPCB
Others	1. Compliance of guidelines on D.G. sets and action against violation	Short	April, 18	SPCB & MC
	2. Help line to oversee non compliances on aforesaid issues.	Short	April, 18	SPCB & MC

13. The data of non-attainment cities is a matter of concern. Though, the MoEF&CC has announced NCAP, as noted earlier, the timeline for bringing down the pollution by 70-80% in next 10 years does not meet the mandate of law. The time line has to be revised. As per some studies, India ranks 177 out of 180 countries in Environmental Performance Index.¹⁴

¹⁴ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>

14. We are thus of the view that emergent measures are required to check sources of air pollution. Once the standards have been laid down in the statutory provisions of the Air Act, 1981, all the authorities as well as citizens are statutorily bound to follow the said standards.
15. Accordingly, we consider it appropriate to take cognizance of the alarming situation and issue directions as follows:
 - i. All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.
 - ii. The Action Plans may be prepared by six-member committee comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The Committee may be called Air Quality Monitoring Committee (AQMC). The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination.
 - iii. The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc. The action plan

shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

- iv. The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.
- v. The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.
- vi. The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.
- vii. The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate Action Plans, as directed.
- viii. The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public

complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/SMS.

- ix. The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.

16. A copy of this be sent by e-mail to all the concerned i.e. Ministries of Environment, Forest & Climate Change, Housing and Urban Affairs, Road Transport and Highway, Agriculture, Petroleum and the Chief Secretaries of all the States and Union Territories for compliance.

17. We understand that some of the Zonal Benches of the National Green Tribunal have also passed directions on the subject of Ambient Air Quality and the States in those Zones are in the process of implementation of such directions. Specific reference may be made in this regard to judgement dated 11.08.2016 in O.A No. 33/2018/EZ in the matter of *Subhas Datta v. State of West Bengal & Ors.* We make it clear that this order shall not be considered as an impediment to those actions but as an addition or supplement thereto for achieving the object of this order at the macro level and of the said order at the micro level in the concerned cities.
18. Needless to say, that order of National Green Tribunal is binding as a decree of Court and non-compliance is actionable by way of punitive action including prosecution, in terms of the National Green Tribunal Act, 2010.
19. The CPCB may compile the data and furnish the same to this Tribunal by email at filing.ngt@gmail.com on or before 15.2.2019.
20. Put up for consideration in the last week of February, 2019.

....., CP
(Adarsh Kumar Goel)

....., JM
(Dr. Jawad Rahim)

....., JM
(S.P. Wangdi)

....., EM
(Dr. Nagin Nanda)

New Delhi
October, 08, 2018

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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Mr. Mukul Singh, Adv. for MoEF.
Mr. Amit Agrawal, Adv.

	Date and Remarks	Orders of the Tribunal
	Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

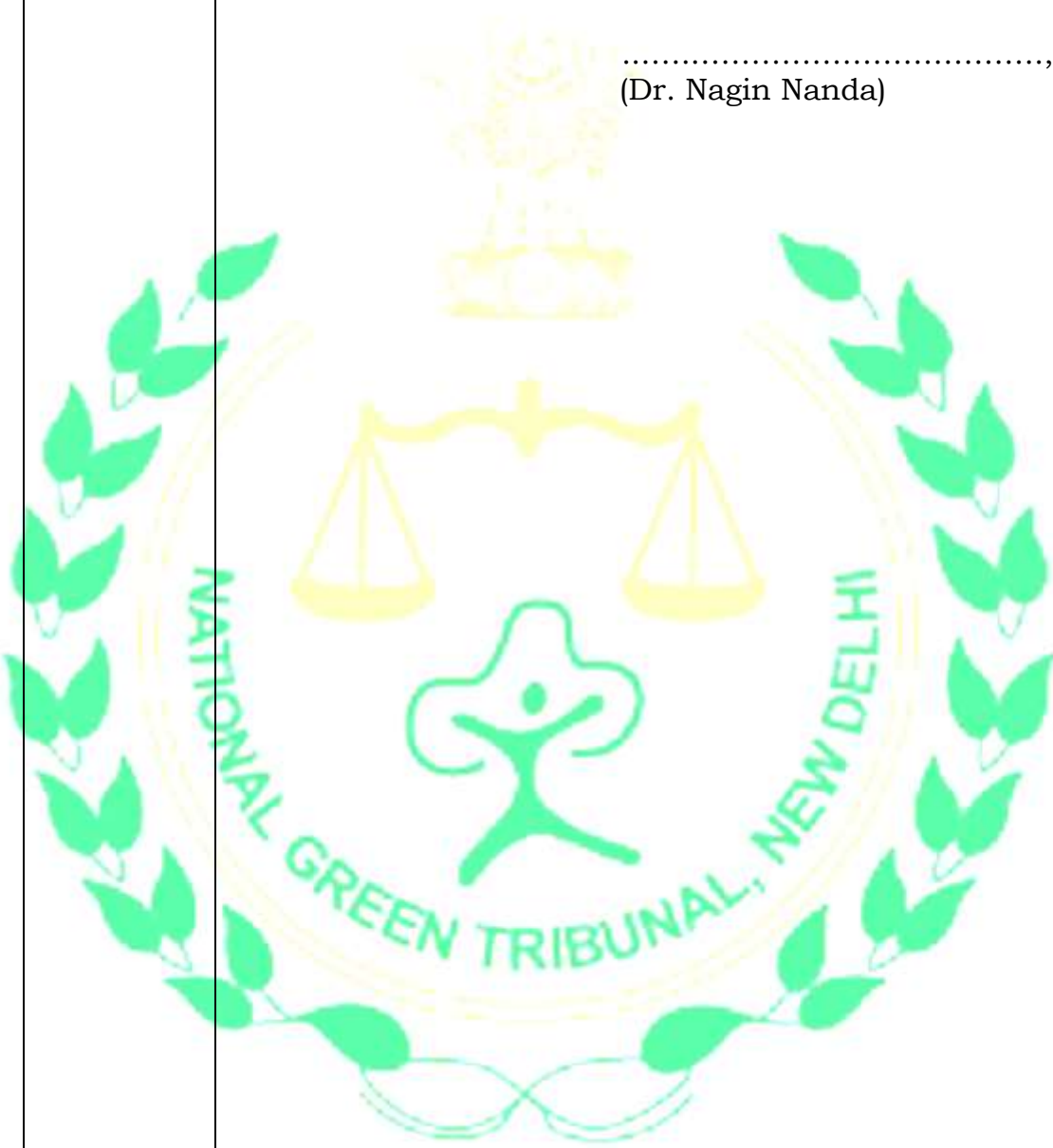
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu g/m^3$ and $PM_{2.5}$ exceeds $600 \mu g/m^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

		residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

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HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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	Date and Remarks	Orders of the Tribunal
	Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

	Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

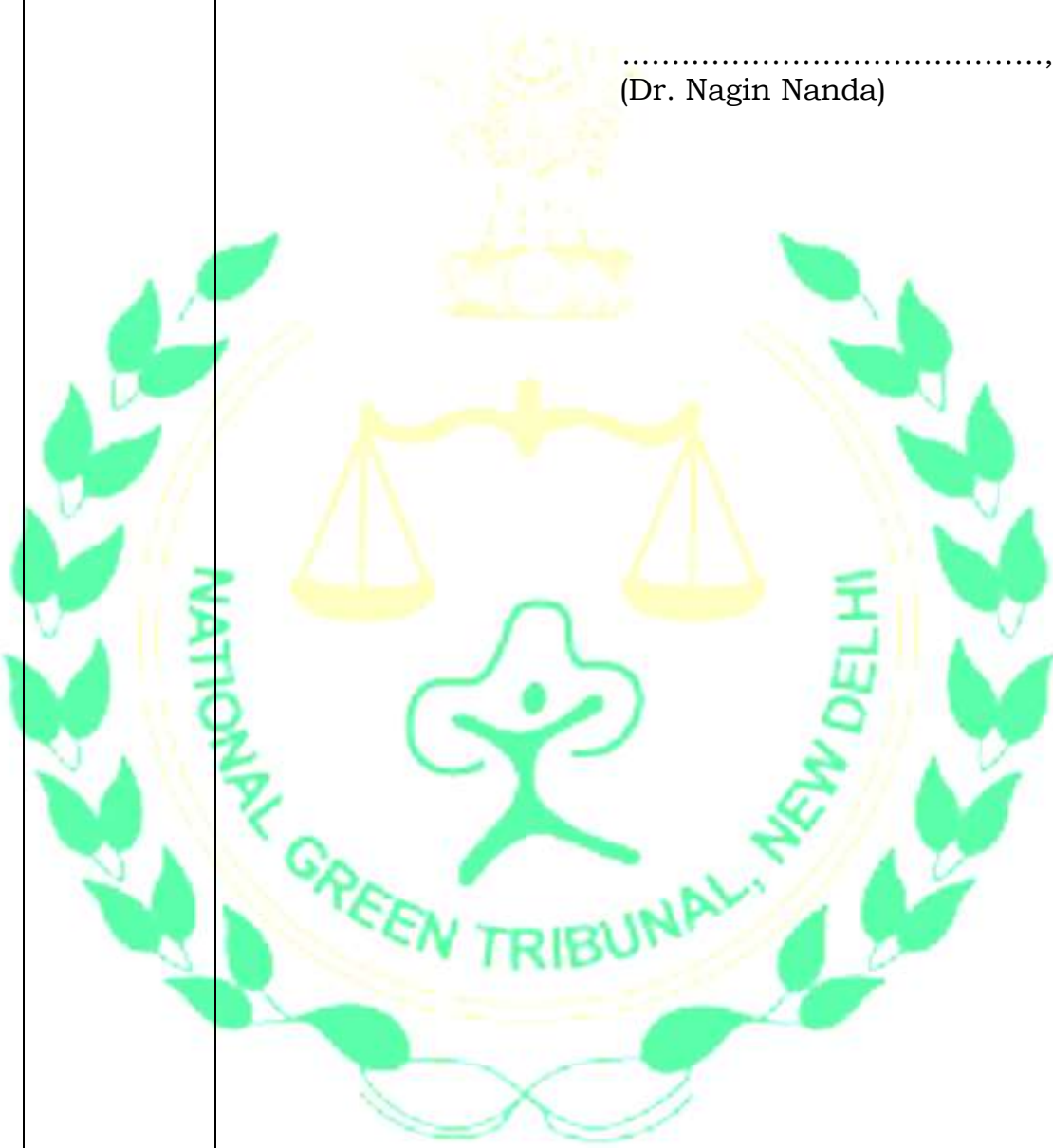
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM₁₀ exceeds 1000 µg/m³ and PM_{2.5} exceeds 600 µg/m³ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: **Applicant:** Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
 Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
 Respondent No. 2: Ms. Alpana Poddar, Advocate
 Respondent No. 4: Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy.
 Dr. S.D. Singh, CEO Parks and Garden Society
 Mr. Kush Sharma, Adv. for DDA
 Ms. Puja Kalra, Adv. for South and North MCD
 Ms. Savitri Pandey, Adv.
 Mr. Balendu Shekhar, Adv. for EDMC
 Mr. Sanjiv Verma, IAS, Director Environment
 Mr. P.C. Meena, IAS, Administrator, HUDA
 Mr. Mahavir Singh, HCS, Addl. Transport Commissioner
 Dr. Yadav, Chief Engineer, ULB Haryana
 Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO
 Ms. Bano Deswal, AAG Haryana
 Mr. Ardhendumauli Kumar Prasad, Adv.
 Mr. B.V. Niren and Prasouk Jain, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

		of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

Original Application No. 21/2014 (Only Notices)

And

Original Application No. 21/2014

(M.A. No. 156/2016 M.A. No. 172/2016, M.A. No. 949/2016, M.A. No. 567/2016
M.A. No. 1220/2016, M.A. No. 22/2017, M.A. No. 47/2017, M.A. No. 52/2017,
M.A. No. 71/2017, M.A. No. 63/2017, M.A. No. 82/2017, M.A. No. 104/2017,
M.A. No. 147/2017, M.A. No. 177/2017, M.A. No. 180/2017, M.A. No. 185/2017,
MA. No. 218/2017, MA. No. 219/2017, MA. No. 238/2017, MA. No. 264/2017,
MA. No. 265/2017, MA. No. 294/2017, MA. No. 352/2017, MA. No. 367/2017,
MA. No. 375/2017, MA. No. 383/2017, MA. No. 385/2017, MA. No. 386/2017,
MA. No. 434/2017, MA. No. 435/2017, MA. No. 436/2017, MA. No. 437/2017,
MA. No. 443/2017, MA. No. 444/2017, MA. No. 446/2017, MA. No. 447/2017,
MA. No. 448/2017, MA. No. 449/2017, MA. No. 450/2017, MA. No. 453/2017,
MA. No. 454/2017, MA. No. 455/2017, MA. No. 456/2017, MA. No. 457/2017,
MA. No. 458/2017 & MA. No. 459/2017)

And

**Original Application No. 95/2014
(M.A. NO. 1156/2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE DR. AJAY A DESHPANDE, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant:

Mr. Sanjay Updhyay, Mr. Salik Shafiq, and Ms. Upama Bhattacharjee, Advs.

Mr. Hitesh Kuar, Mr. Maish Garg, Advs. in M.A.

Mr. Ruchir Batra and Mr. Hitesh Batra, Adv. in M.A. 444 of 2017

Ms. Bhumika Kapoor, Adv. in M.A. 63/2017

Mr. Harvinder Sekhon appearing in person

Mr. Rahul Khurana, Adv. in M.A. 459 of 2017

Mr. Sameer Kulshreshtra, Adv. for Applicant in MA. No. 264/2017

Ms. Pinki Anand ASG with Mr. Balendu Shekhar and Mr. Rajesh Rayan, Advs. for MHI and MORTH

Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO

Mr. Ravi Chhabra, Adv. in M.A. No. 47, 71 and 238 of 2017

Mr. Manish Vermaç Adv.

Mr. Rajiv Bansal, Mr. Kush Sharma, and Ms. Arpita, Advs. for Delhi Development Authority
 Ms. Khushboo Bari, Advs. for Tata Motors in MA. No. 172/2017
 Mr. Soumyajit Pani, Adv.
 Mr. Sarthak Chaturvedi and Mr. Rohit Pandey and Mr. Beerendra singh Advs.
 Ms. Khushboo Bari, Adv.
 Mr. Anmol Diwan Adv.
 Mr. Abhishek Yadav wit Mr. Amit Kumar, Advs.
 Mr. Balendu Shekhar, , Mr. R.K. Maurya, Advs. for EDMC in MA. NO. 350/2017
 Mr. Edward Balho, and Mr. K. Luikang Michael, Ms. Elix Gangmei, Advs. for State of Nagaland
 Mr. Rudreswar Singh and Mr. Gautam Singh, Advs. for State of Bihar and Bihar PCB
 Mr. Nishe Rajen Shonker, Adv. for State of Kerala
 Mr. Vibhav Misra and Ms. Saumya Misra, Advs.
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, and Mr. Charan Jeet Singh, Advs. GNCTD
 Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Mukesh Verma, and Mr. Bikash Kr. Sinha, Advs.
 Mr. Jogy Scaria, Adv. for State of Kerala State Pollution Control Board
 Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Ms. Yogmaya Agnihotri, Adv.
 Mr. Atul Jha, Adv.
 Mr. Nishe Rajen Shonker, Adv.
 Mr. Pradeep Misra and Mr. Daleep Dhyani, Advs. UPPCB
 Mr. Guntur Prabhakar, and Prashan Mathur, Advs. for State of AP
 Mr. Raman Yadav. Adv.
 Mr. Narneder Pal Adv. with Mr. Dinesh Jindel, LO Delhi Pollution Control Committee
 Mr. Dileep Poolakkot, Adv.
 Mr. Sumit Kishor, Adv.
 Ms. Sakshi Popli, with Mr. Anurag Kumar, Advs.
 Ms. Priyanka Sinha, Adv.
 Mr. Vibhav Misra and Ms. Saumya Misra, Advs.
 Ms. Hasan Khushshail Adv. in M. A. No. 265/17
 Mr. Anil Grover AAG with Mr. Rahul Khuran and Mr. Sandeep Yadav, Adv.
 Mr. Gopal Singh, Mr. Rituraj Biswas and Mr. Kumr Milind, and Ms. Varsha Poddar, for State of Tripura and State Pollution Control Board
 Mr. Ashish Rana, Adv.
 Mr. Dinesh K. Garg and Mr. Dhananjay Garg, Adv.
 Mr. V. K. Shukla, Adv.
 Mr. Vijay Kr. Sr. Adv. Mr. C. Birbal and Mr. A. Senyal, Adv.
 Mr. Abhishek Yadav, Adv for State of Uttar Pradesh
 Mr. Raja Chatterjee, Mr. Chanchal Ganguli, Mr. Piyush Sachdev Adv. for State of WB
 Mr. Ashish Negi adv. for Ms. Richa Kapoor, Adv. for PPCB
 Mr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Vishwendra Verma, Adv. for MoEF
 Ms. Niti Chaudhary, LA Central Pollution Control Board
 Mr. Anil Soni, AAG and Mr. Naginder Benipal, Adv. for State of Punjab
 Mr. R. Rakesh Sharma, Mr S. Anand Adv. for State of Tamil Nadu and TNPCB
 Ms. Aruna Mathur and Mr. Avneesh Arputham and Ms. Anuradha Arputham, Mr. Amit Arora, Adv. for State of Sikkim
 Mr. Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Adv. for State of Rajasthan and RSPCB
 Ms. Priyanka Swami, adv. For Nagar Nigam Ghaziabad
 Mr. A. K. Prasad and Mr. Jaydip Pati and Mr. Namit Saxena Adv. for MoUD and PNG
 Mr. Vijay K. Sondhi, Mr. Arnav Sanyal Adv.
 Mr. Soumyajit Pani, Adv.
 Mr. Darpan Wadhwa Sr. Adv. with Mr. Arjun Singh, Adv.
 Mr. Hemant Jain and Ms. Usha Jain, Adv.
 Mr. Nitin Gahlot Adv. for Delhi Cantonment Board
 Ms. Puja Kalra, Adv.
 Dr. Abhishek Atrey, Adv.
 Mr. Vishwendra Verma and Mr. Yogesh Ratra, Adv.
 Mr. Amit Agarwal and Ms. Asha N. Basu, Adv. for WBPCB
 Ms. Yogmaya Agnihotri, Adv. for CECB
 Mr. Somayajit Pani, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 20 to 25 April 21, 2017	<u>M.A. No. 383 of 2017</u> We have heard the Learned Counsel appearing for the parties. The Applicant is permitted to get two new diesel vehicles ambulance registered with the Director of Transport provided they are BS-IV compliant and the conditions with regard to condemnation and disposal of the vehicles referred to in our order dated 16th September, 2016 have been complied with. With the above direction, M.A. No. 383 of 2017 stands disposed of. <u>M.A. No. 63 of 2017</u> The prayer of the Applicant for registration of an ambulance modernly equipped in all respect is allowed subject to just exception that it is BS-IV compliant and on their affidavit an undertaking to the Transport Authority that they do not own, possess or engage any diesel vehicle which is 10 years old or above. With the above direction, M.A. No. 63 of 2017 stands disposed of without any order as to cost. <u>M.A. No. 265 of 2017, M.A. No. 218 of 2017, M.A. No. 185 of 2017, 180 of 2017, M.A. No. 104 of 2017, M.A. No. 82 of 2017</u> Nobody is present on behalf of the Applications. Thus, M.A. No. 265 of 2017, M.A. No. 218 of 2017, M.A. No. 185 of 2017, 180 of 2017, M.A. No. 104 of 2017, M.A. No. 82 of 2017 are dismissed for default of

	Item No. 20 to 25 April 21, 2017	appearance. <u>M.A. No. 264 of 2017</u> Heard. Admittedly, the Applicant has constructed an area of more than 24000 sq. mtr. Therefore, in terms of the order dated 18th February, 2017, he is liable to pay environmental compensation of Rs. 5 lakh. Thus, M.A. No. 264 of 2017 stands dismissed as we do not find any merit in the prayer. <u>M.A. No. 219 of 2017</u> This is an Application for exemption from filing a translated copy. The same is allowed subject to just exception. Thus, M.A. No. 219 of 2017 stands disposed of accordingly. <u>M.A. No. 177 of 2017</u> We have heard the Learned Counsel appearing for the Applicant. The corporation is permitted to get the suction machine registered in accordance with law. Thus, M.A. No. 177 of 2017 stands disposed of accordingly. <u>M.A. No. 47 of 2017, 71 of 2017 and 238 of 2017</u> The Learned Counsel appearing for the Petroleum & Natural Gas Regularity Board submits that they have invited bid for installation of City Gas Distribution Network for Muzaffarnagar. However, no bid has been received. He submits that the same would be re-invited and they would ensure with utmost expeditiousness that CNG is provided to all the cities particularly the cities falling in the NCR Delhi and even at a distance of 200Kms from Delhi in the State of Uttar Pradesh, Punjab, Haryana and Rajasthan. It is stated that by December, 2017, they

Item No. 20 to 25 April 21, 2017	would complete the network in all the cities/stations. It is stated that the Central Government has not appointed the Members of the Board and therefore, the Board is not able to function appropriately and expeditiously. This is a matter of utmost priority. We direct the concerned Ministry of Petroleum to take appropriate steps so that at least the work of the Board from the point of view of environment is not obstructed or delayed. All these Applications are allowed subject to just exception and subject to final orders passed in this matter. However, it is made clear that the moment the CNG is introduced in the respective stations in Muzaffarnagar particularly the buses will stop plying forthwith and only CNG would be permitted. The Applicant should prepare well in time for introduction of the CNG buses and taking off the road the diesel vehicles which are more than 10 years old. We make it clear that we will not grant any extension for this purpose. However, the Applicant plea that even these buses should not be allowed to ply on the road, it should be kept open. With the above direction, M.A. No. 47 of 2017, 71 of 2017 and 238 of 2017 stand disposed of without any order as to cost. <u>Main Matter</u> The NCT Delhi is directed to increase the number of destination buses as well as include Patparganj as one of the station from where the buses will start directly for the destination fixed from 20 that was stated before us yesterday. The destination buses should be at least 40 so that atleast 4 or more buses from each destination could start at the same time. The destination buses shall be

	Item No. 20 to 25 April 21, 2017	withdrawn if at all only after the status Report is submitted to the National Green Tribunal and Orders of the Tribunal in that behalf are obtained. The primary object of destination buses is to reduce the load of traffic on the roads i.e. private cars and the two-wheelers as well. The two-wheelers are a serious source of air pollution. Therefore, it is necessary that the agencies of the State publicize the same for information of the public at large on the one hand while on the other hand, there should be stringent enforcement of challaning the vehicles which are polluting. We would expect the Committee appointed under the order of the Tribunal to submit a complete and comprehensive Report to the Tribunal. We make it clear that the challans recorded by the Traffic Police under the provisions of the Motor Vehicle Act, 1988 would be in addition to the fines that the Tribunal may impose upon the same offenders for causing environmental pollution and traffic congestion on the roads leading to air pollution. The Department of PWD of NCT Delhi is hereby directed to fully cooperate with the Traffic Police to ensure compliance of the directions passed by the Tribunal wherever necessary. They shall do so without default and delay. The Learned Counsel appearing for the South and North Corporation has brought to our Notice that the officials of the Corporation had challaned large number of persons for violating orders of the Tribunal and – Municipal laws and were responsible for causing pollution by dust or otherwise by carrying on the construction activity. According to her, all these were served with the

	Item No. 20 to 25 April 21, 2017	Notices of challans but they have failed to deposit the environmental compensation as directed under the orders of the Tribunal. She submits that they should be summoned by the Tribunal and directed to pay the requisite environmental compensation. Let Notice be issued to the following and the notices will be served by the South & North Corporation. The SHO of the concerned area is directed to provide police assistance to the officers for serving the notices without default: 1. Mr. Phulinder Singh Sethi, Plot No. 13, Road No. 78, Punjabi Bagh West, New Delhi – 110026 2. Mr. Ashwani Kr. Mahajan, Plot No. 33, Road No. 72, Punjabi Bagh West, New Delhi- 110026 3. Owner/ Builder, A-39, Mayapuri Industrial Area, Phase-I, New Delhi-110066 4. Owner/ Builder, A-29, Mayapuri Industrial Area, Phase-I, New Delhi-110068 5. Owner/ Builder, Plot No. 58, Road No. 42, Punjabi Bagh West, New Delhi – 110026 6. Owner/ Builder, C-144, Mayapuri Industrial Area, Phase-II, New Delhi-110069 7. Owner/ Builder, Plot No. 17, Road No. 78, West Punjabi Bagh 8. Owner/ Builder, Plot No. 24, Road No. 78, West Punjabi Bagh 9. Owner/ Builder, Plot No. 7, Road No. 41, Punjabi Bagh West, New Delhi- 110026 10. Mr. V.K. Sood, Car Parking Block-7, Subhash Nagar Gurudwara 11. C&C Const., Car Parking, J-8 Block, Rajouri Garden

	Item No. 20 to 25 April 21, 2017	The notices returnable on 26th April, 2017. For the present, we are confining issuance of these Notices only to the defaulters who are owner/builders of the building admeasuring 1000 sq. yard and above. All of them would be examined on the subsequent date. Consequently, we issue bailable warrant against all the above owners/builders in the sum of Rs. 25,000/- to the satisfaction of the arresting Officer, in exercise of our powers and in terms of the provision of Section 19 (4) (a) of the National Green Tribunal Act, 2010 read with Order XVI Rule 10(3) and Section 151 of Code of Civil Procedure, 1908. The bailable warrant shall be executed by the SHO of the concerned area. The corporation shall provide complete details of the persons whose details have not been provided exactly in the list submitted to us in the Court today. The Uttar Pradesh State Government, Uttar Pradesh Pollution Control Board, Delhi Pollution Control Committee and NCT Delhi and all the corporations are hereby directed to enforce the directions of the Tribunal in regard to prohibition of burning of any kind of waste in open. Let the concerned officers file affidavits as to how many challans have been effected by the respective authorities in relation to burning of crop, burning of waste, burning of oil or any other material in the open including working of the hot mix plant and emissions generated by the hot mix plant. They shall also state whether the environmental compensation fixed by the Tribunal have been recovered from them or not. The agency shall also state on affidavit as to what is the mechanism provided for emergency response if any,

Item No. 20 to 25 April 21, 2017	such fire incident is brought to their notice. They shall also submit whether the phone numbers and website of the respective agencies have been publically declared open which any member of the public could approach them bringing to their notice the incident of such illegal, unauthorized burning adversely effecting the environment. They will also state the details of the complaints received in that manner and the action taken thereupon. It is brought to our notice that there are massive, unauthorized, illegal constructions going on in the flood plain of river Yamuna despite prohibitory orders of the Tribunal. Let the Learned Counsel for Delhi Development Authority verify the same and report to the Tribunal and if such constructions are going on, they should be stopped forthwith. List this matter on 26th April, 2017. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim) ,JM (Raghuvendra S. Rathore) ,EM (Bikram Singh Sajwan) ,EM (Dr. Ajay A Deshpande) ,EM (Dr. Nagin Nanda)

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)
And
Original Application No. 21/2014**

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And**

**Sanjay Kulshrestha Vs. Union of India & Ors.
And**

**Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And**

**Diya Kapur & Ors. Vs. Union of India & Ors.
And**

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay Ms. Upama Bhattacharjee, and
Mr. Saumitra Jaiswal, Adv.
Mr. Shivam Bajaj., Adv in M.A. No. 1384
Mr. Rajneesh Bhardwaj and Mr. Raj Kishan and Mr.
Rahul Sharma and Mr. Tarun, advs
Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and
Ms. Ritwick Nanda, Adv
Mr. S.M. Ali, Special Sec., Dr. Anil Kumar, Director, Mr.
Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Arjun S. adv.
Mr. Gaurav Dubey, Adv.
Mr. Amit Dubey, Mr. Karan Cjawla Adv.
Mr. Gunyan S. Jain, adv
MR. Ankit Tyagi, Adv.
Mr. Udaibir Singh Kochar Adv.
Mr. Debarshi Bhuyan Adv
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal and Ms.
Sikha Sandhu Mr. Adhiraj Singh Rajwat, Adv. Mr. R. K.
Gorver Sec. Environment Rajsastha

Mr. Bhanwar Pal Singh Jadon and Dr. Sandeep Singh, Adv.
 Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Adv.
 Mr. Vijay Sondhi, Ms. Cauveri Birbal, Mr. Sarvajeet Kumar Thakur, Adv.
 Mr. Soumyajit Pani, Adv with Mr. Chittaranjan Singh, Adv.
 Dr. Sandeep Singh and Mr. Vinay Pal, Adv.
 Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv.
 for State of Uttarakhand
 Mr. Anshuman Srivastava, Adv.
 Mr. Krtika Sachdeva and Mr. Mukesh Kumar, Adv.
 Mr. Raman Yadav and Ms. Varnita Rastogi, Adv. for GDA
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	Date and Remarks	Orders of the Tribunal
	Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. ‘Categorization’ has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

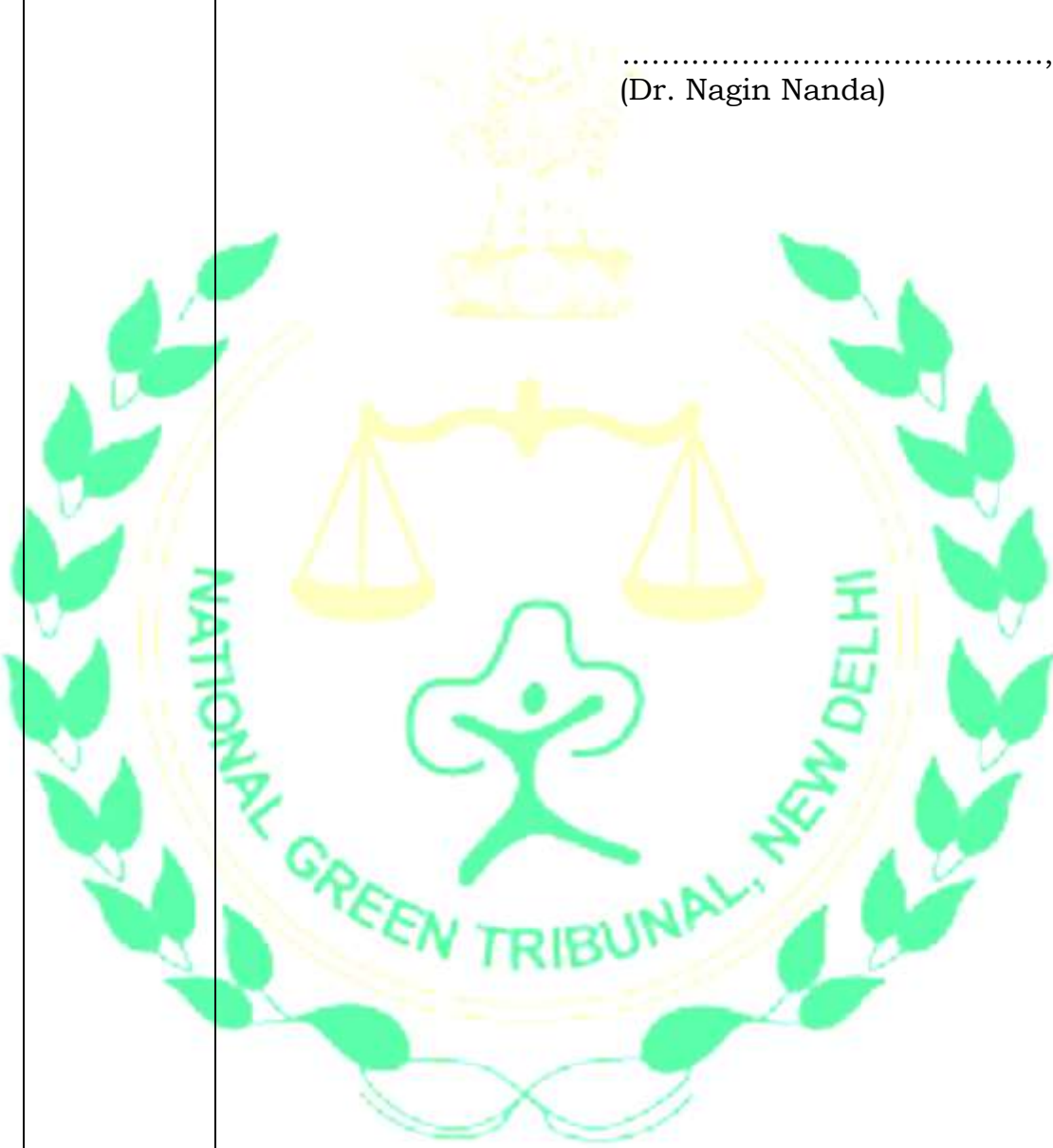
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu\text{g}/\text{m}^3$ and $PM_{2.5}$ exceeds $600 \mu\text{g}/\text{m}^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

Item No. 04

Court No. 1

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

Original Application No. 681/2018

News item published in "The Times of India" Authored by Shri Vishwa
Mohan

Titled

"NCAP with multiple timelines to clean air in 102 cities to be released
around August 15"

(Report filed in O.A. No. 681/2018)

Date of hearing: 06.08.2019

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): None

For Respondent (s): Mr. Rajkumar, Advocate for CPCB
Ms. Nandini Sen, Advocate for State of West Bengal
Mr. Shuvodeep Roy, Mr. Sataroop Das, Advocates for State of Tripura
Ms. K. Enatoli Sema, Advocate for State of Nagaland & PCB
Mr. Dhananjay Baija, Advocate for Telangana State
G. Indira, Advocate for Andaman & Nicobar Admn.
Mr. Jogy Scaria, Advocate for KSPCB
Mr. Shuvodeep Roy, Mr. Vinayak Gupta, Advocates for State of Assam
Mr. T.V.S. Raghavendra Sreyas, Advocate for APPCB
Mr. Rahul Khurana, Advocate for HSPCB

ORDER

1. The question for consideration is the remedial measures to be adopted to enforce the Ambient Air Quality Standards with reference to the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the

EPA Act) in cities classified as 'Non-Attainment Cities' (NACs)¹ based on monitoring of the ambient air quality. Further question is compliance of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules) framed under the provisions of the EPA Act.

I. Non-attainment Cities not meeting the standards of Air Quality

2. Vide order dated 08.10.2018, this Tribunal noticed the newspaper report² to the effect that 102 cities were identified as NACs for not meeting the prescribed standards of air quality. The Air Act stipulates stopping of any activity violating norms of air quality and taking steps for prosecution or other regulatory measures³ which have been read to include recovery of compensation on 'Polluter Pays' principle⁴. National Ambient Air Quality Standards are laid down under Section 16(2)(h) of the Air Act.⁵ The Central Pollution Control Board (CPCB) compiled its report with reference to the said standards and published a list of 102 NACs⁶. The GoI prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years. It may be noted that as a result of such exercise, earlier in the year 2017 number of NACs was 95⁷.

¹ NAC has been defined as those "Cities which are exceeding annual average concentrations of any of the notified parameters with respect to National Ambient Air Quality Standards for consecutively five years".

² Dated 03.08.2019 in the Times of India under the heading "NCAP with multiple timelines to clean air in 102 cities to be released around August 15".

³ Section 22 read with Section 31A of the Air Act and

⁴ Aryavart Foundation Vs. M/s Vapi Green Enviro Limited & Ors.O.A No. 95/2018, Indian Council for Enviro Legal Action & Ors. v. Union of India & Ors. (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum v. Union of India & Ors. (1996)5SCC647 Para 12 to 18 - holding that 'Polluter Pay' principle is accepted principle and part of environmental law of the country, even without specific statute.

⁵ Notification dated 12.11.2009 issued by the CPCB

⁶ https://cpcb.nic.in/uploads/Non-Attainment_Cities.pdf

⁷ <http://cpcbenviis.nic.in/airpollution/finding.htm>. Based on ambient air quality data obtained (2008-2010) under National Air Quality Monitoring Programme (NAMP)

3. The Tribunal noted the concern arising from such large scale air pollution which grapples the country in spite of statutory mechanism under the Air Act, directions of the CPCB under section 18(1)(b), dated 29.12.2015 and directions of the Hon'ble Supreme Court for control of vehicular pollution⁸, industrial and construction sector pollution⁹, power sector pollution¹⁰ and agricultural sector pollution¹¹ and orders of this Tribunal dealing with the said issues¹². The Tribunal also referred to a Comprehensive Action Plan (CAP) for air pollution control for NCR prepared in pursuance of order of the Hon'ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and DPCC on 05.04.2017¹³ and Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017¹⁴ stipulating specific steps for different levels of air quality such as improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns, control of

⁸ M.C. Mehta v. Union of India (1985)2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 3 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

⁹ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 235, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2 SCC 431, Mohd. Haroon Ansari v. District Collector (1998) 6 SCC 60, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 4 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors. (2013) 4 SCC 575, M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000) 6 SCC 213

¹⁰ Consumer Education and Research Centre v. Union of India (1995) 3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2 SCC 539

¹¹ Arjun Gopal and Ors v. Union of India and Ors (2017) 16 SCC 280, Dr. B.L Wadhera v. Union of India and Ors (1996) 2 SCC 594

¹² Vardhman Kaushik v. Union of India and Ors. O.A no. 21 of 2014, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors, O.A No. 118 of 2013, Satish Kumar v. Union of India and Ors, O.A. No. 56 (THC) OF 2013, Smt. Ganga Lalwani V. Union of India and Ors. O.A No. 451 of 2018

¹³ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

¹⁴ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

generator sets, open burning, open eateries, road dust, construction dust, etc.¹⁵

4. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.
5. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes stopping entry of trucks, stopping construction activities, odd and even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanised cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc.
6. The MoEF&CC has by various notifications put restriction on activities in Coastal areas, Flood plains, Taj corridor Eco-sensitive zones, etc. in view of ecological sensitivity and impact of such activities on environment if such activities are carried out in unregulated areas. This needs to be extended to the NACs in view of impact on public health and environment to give effect to the 'Precautionary' and 'Sustainable Development' principles.
7. The Tribunal after consideration of the issue on 08.10.2018, directed as follows:

¹⁵<https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>, <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022..>

- i. All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.
- ii. The Action Plans may be prepared by six-member committee comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The Committee may be called Air Quality Monitoring Committee (AQMC). The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination.
- iii. The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc. The action plan shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.
- iv. The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.
- v. The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.
- vi. The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.
- vii. The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be

- personally accountable for failure to formulate Action Plans, as directed.*
- viii. The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/SMS.*
 - ix. The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.”*

8. Thereafter, compliance of the above directions was reviewed on 15.03.2019 in the light of report submitted by the CPCB on 15.02.2019. The Tribunal observed:

“5. In pursuance to the above, the CPCB has filed compliance report vide e-mail dated 15.02.2019. An updated status report has been furnished during the hearing by the learned counsel for the CPCB which is as follows:-

“Action Plan received: 83 cities
 Action plan not received: 19 cities
 Action Plan approved by CCB: 46
 Action Plan not approved by CCB: 11
 Action Plan under Review: 26+3 (three revised plan of
 Telangana received)
 Monitoring Network worked out in consultation with SPCBs”.

6. *The question is the action to be taken for non-compliance by the States in not preparing action plans or incomplete plans and further directions for execution of plans.*
7. *Non-compliance of order of this Tribunal is a criminal offence under Section 26 of the National Green Tribunal Act, 2010 and in case of Government, Head of the Department is deemed to be guilty for such an offence. Punishment provided is sentence upto three years or fine upto Rs. 10 crores or both with additional fine for the every day's failure. Under Section 25 of the NGT Act, 2010, order of the Tribunal is decree of Civil Court to be executed as per Civil Procedure Code. Section 51 Civil Procedure Code provides civil imprisonment as a mode for enforcing the decree. Alternatively, such further order can be passed as may be necessary to secure compliance.*
8. *Vide order dated 16.01.2019 in O.A. No. 606/2018, the Tribunal directed Chief Secretaries of all the States to appear in person and furnish compliance of various orders of this Tribunal, including the above order dated 08.10.2018 with regard to non-attainment cities. The Chief Secretaries of five States have already appeared and most of the States have are still non-compliant. They have been directed to take necessary steps with improved institutional mechanism and approach.*
9. *In view of non-compliance of orders of this Tribunal, on an important issue adversely affecting public health and lives of citizens, inspite of serious consequences statutorily provided by the Parliament, we direct Chief Secretaries of the States in respect of which action plans have not been filed i.e. Assam, Jharkhand, Maharashtra, Punjab, Uttarakhand and Nagaland to forthwith furnish such action plans. If such action plans are not furnished till 30.04.2019, the States will be liable to pay environment compensation of Rs. 1 crore each. The States, where action plans are found to be deficient and deficiencies are not removed till 30.04.2019, will be liable to pay Rs. 25 lacs each. The timeline for execution of the action plans is six months from the date of finalization of action plan. Budgetary provision must be made for execution of such plans.*
10. *If action plans are not executed within the specified timeline mentioned above, the defaulting States will be required to pay Environmental Compensation and may also be required to furnish performance guarantee for execution of plans in extended timeline as per recommendations received from CPCB. The CPCB may make its recommendation in the matter before the next date.*
11. *The CPCB is directed to update the number of cities. If on parameters applied, there are other cities, not included in list of 102, such cities may be also included.*
12. *We also direct CPCB to prepare noise pollution map and identify hotspots and categorize the cities with specified hotspots and propose a remedial action plan. Such report may be furnished within three months by e-mail at ngt.filing@gmail.com. We are informed that in 7 cities noise*

monitoring mechanism has already been established by the CPCB which is functioning on continuous basis and is connected to the server of CPCB. The CPCB may consider setting up such mechanism in all the cities which are found to be having noise level above approved the threshold.”

9. Apart from the above orders, it may be noted that vide order dated 16.01.2019 in O.A No. 606/2018¹⁶ the Tribunal directed the Chief Secretaries of all the States/UTs to appear in person with their reports on significant environmental issues affecting the health of people, including the issue of NACs¹⁷ dealt with in the present proceedings. On 23.04.2019, in O.A NO. 606/2018¹⁸, the Tribunal directed CPCB to explore preparation of Annual Environment Plan for the country giving status of compliance of environmental norms and gaps, if any. In the process, to undertake assessment of damage to the environment in monetary terms so that by applying the ‘Polluter Pays’ principle, the cost of damage is recovered from identified polluters. Further orders passed by the Tribunal which have direct bearing on air quality include action for management of bio-medical waste¹⁹, plastic waste management²⁰, prohibiting polluting activity in polluted industrial areas²¹ and remediation of legacy waste dump-sites in the country²².
10. We proceed to consider the status of compliance of our directions with regard to NACs. In the light of the report submitted by the CPCB on 15.07.2019. For convenience, we propose to consider the matter with reference to following questions:

¹⁶ Compliance of Municipal Solid Waste Management Rules, 2016

¹⁷ Para 40 of Order dated 16.01.2019

¹⁸ Compliance of Municipal Solid Waste Management Rules, 2016 (State of Tamil Nadu)

¹⁹ O.A No. 710/2017

²⁰ Execution Application No. 13/2019

²¹ O.A No. 1038/2018

²² O.A No. 519/2019 and O.A No. 386/2019

- a. Whether a robust nationwide real time online continuous ambient air quality monitoring programme has been designed as admittedly there are shortcomings in the current air quality monitoring regime in view of area coverage and quality of data?
- b. Whether more cities have been identified as NACs and strategy to deal with the same has been prepared?
- c. Whether the States with NACs have prepared time bound and budgeted Action Plans for bringing the air quality of NACs in their States within the prescribed norms?
- d. Whether the components of such Action Plans are in conformity with the directions in order dated 08.10.2018²³?
- e. Whether environmental compensation regime has been designed on 'Polluter Pays' principle?
- f. Whether CPCB, SPCBs and PCCs have developed a public grievance redressal portal?
- g. Further directions to deal with the situation.

a. Nationwide Ambient Air Quality Monitoring Programme

11. According to the learned counsel for the CPCB, on instructions from the officers present, about 1,500 more real time Online Continuous Ambient Air Quality Monitoring Stations (OCAAQMS) are required to be installed to compile air quality data in the country. At present number of such stations is inadequate and consequently the correct

²³ (I) Identification of source of pollution; (II) Determining source apportionment including sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc; (III) measures for strengthening of Ambient Air Quality (AAQ) monitoring and (IV) Steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

picture/status with regard to number of NACs is not been reported and that the number could be more than what has been reported. Strict compliance be reported in terms of our orders dated 08.10.2018 and 15.03.2019. The report of the CPCB on the subject states minimum number of required stations both manual and CAAQMS in terms of number of people as per 2011 census:

Population (Census 2011)	Minimum No. of manual station under NAMP	Minimum no of proposed CAAQMS	Total
1,00,000- < 5,00,000	1-Background 2-Residential/ Commercial	1-Residential	4
5,00,000- <10,00,000	1-Background 2-Residential/ Commercial	1-Residential 1-Traffic dominant area 1- Commercial	6
10,00,000- <50,00,000	1-Background 2-Residential/ Commercial	2-Residential 1-Traffic dominant area 1- Commercial 1-Industrial area	8
>50,00,000	1-Background in upwind direction 1-Background in down wind direction 2-Residential/ Commercial	4-Residential 3-Traffic dominant area 3- Commercial 2-Industrial area	16

12. It will thus be appropriate that the optimal figure is duly worked out by the CPCB and whatever number of manual and real time online continuous AAQMS are found necessary to be installed, may be installed within six months and linked to the central server of CPCB. The action with regard to this is necessary from CPCB, SPCBs and PCCs. For this purpose, environmental compensation fund available with CPCB, SPCBs and PCCs may be utilized. It has been stated by the learned Counsel of CPCB that thousands of crores of funds are lying with SPCBs and PCCs under the ‘Consent’ head in addition to Environmental Compensation and these funds needs to be utilized for

environmental restitution. Accordingly, each State PCB and PCC may give details of such funds to this Tribunal and the CPCB within two months. The State PCBs and PCCs must also submit action plan for utilization of these funds to CPCB within next two months. The CPCB within two months thereafter scrutinize and approve the same in terms of our orders dated 08.10.2018 and 15.03.2019.

b. Interactive Public Grievance Redressal Portal

13. The CPCB has developed such a portal “Sameer”. On the same pattern, all the States/UTs need to develop their respective interactive portals within two months from today, if not already done clearly defining the accountable personnel for grievance redressal and time span for grievance redressal.

c. Directions for Additional NACs identified

14. As per report of the CPCB, 20 more cities have been identified as NACs as follows:

Sl. No.	State	Sl. No.	City
1.	Andhra Pradesh	1.	Anantapur
		2.	Chitoor
		3.	Eluru
		4.	Kadapa
		5.	Ongole
		6.	Rajahmundry
		7.	Srikakulam
		8.	Vizianagaram
2.	Gujarat	9.	Vadodara
3.	Maharashtra	10.	Thane
4.	Odisha	11.	Kalinga Nagar
5.	Tamilnadu	12.	Trichy
6.	Telangana	13.	Sangareddy
7.	Uttarakhand	14.	Dehradun
8.	West Bengal	15.	Asansol
		16.	Barrackpore
		17.	Durgapur
		18.	Haldia
		19.	Howrah
		20.	Raniganj

We feel that this number may increase further given the fact that there is a huge gap in terms of air quality monitoring regime in our country. Meanwhile, the action plans may need to be prepared by the respective States for the said 20 NACs also, by the concerned states within next three months and after its approval by CPCB within two months the States referred to above must initiate time bound action on remediation within next three months.

d. Action Plans for NACs

15. The report shows that action plans for 92 cities have been approved by the CPCB. Out of the 102 action plans that were submitted by 30.04.2019 the CPCB has not approved 10 NACs' action plans namely Guwahati, Nagaon, Nalbari, Sibsagar, Silchar (Assam), Dhanbad (Jharkhand), Bangalore (Karnataka), Mumbai, Nasik and Solapur (Maharashtra). CPCB has issued directions to the concerned States for implementation/revision of the said plans. The same ought to be finalized within two months. The States which have failed to comply in terms of our order dated 15.03.2019 are liable to pay CPCB, the environmental compensation as per the extent of default.

e. Components of Action Plans in conformity with order of this Tribunal

16. The action plans provide for short term, medium term and long-term strategies as well as source apportionment, carrying capacity studies, public awareness, complaint redressal mechanism and budgetary support. The implementation strategies mentioned in the report include source apportionment and carrying capacity assessment with a view to fix liability to enforce the regulatory regime. Since source

apportionment and carrying capacity assessment has not been done, a model/SOP for source apportionment and carrying capacity needs to be worked out within two months by the CPCB and replicated for all such cities. We may note that some models on carrying capacity have been noted in our order dated 29.07.2019 in O.A. No. 635/2017, *Ramesh Chand vs. State of Himachal Pradesh & Ors.*, Order dated 05.10.2018 in O.A. No. 218/2017, *Society for Preservation of Kasauli and its Environs (SPOKE) Vs. M/s Kasauli Glaxie Resorts and in Yogindra Mohan Sengupta Vs. UOI, MoEF&CC & Ors.*, Original Application No. 121/2014 in context of Shimla Planning Area. By these orders, in the areas of Shimla, Kasauli, Manali and Mcleodganj, construction and certain other activities have been prohibited and regulated. In addition to these, a report of CPCB dated 22.04.2019 filed in O.A No. 568/2016²⁴ on carrying capacity assessment may also need to be looked into. However, the said report is only with reference to PM₁₀ and PM_{2.5}, whereas other pollutants affecting the ambient air quality may also need to be factored in. Further, CPCB report on CEPI Scores for 100 Industrial Areas/Clusters monitored during 2018 is the manifestation of deteriorating environment in term of Water EPI, Air EPI and Land EPI²⁵. Accordingly, CEPI score has been evaluated. The CEPI score is itself a sort of manifestation of carrying capacity of 100 Industrial Areas/Clusters which warrants immediate action in terms of remediation and regulation to ameliorate the condition. The action plans must be read to include all components in terms of order of this Tribunal dated 08.10.2018.

²⁴ Ajay Khara Vs. M/S Container Corporations of India Limited & Ors. Report by the CPCB is in relation to Carrying Capacity for Air Quality for Delhi- NCR

²⁵ The same is subject matter of order of this Tribunal dated 10.07.2019 in O.A. No. 1038/2018

17. The timeline prescribed by CPCB in its report dated 15.07.2019 for reviewing action plans for further micro planning needs to be reduced from six months, preferably to four months in view of severity of problem and adverse impact of air pollutants on public health.

f. Compensation Regime

18. The compensation regime based on 'Polluter Pays' principle is necessary in view of inadequate action under criminal law. There are no figures available about the number of persons convicted and sentenced under the Air Act even though there are various estimates about number of deaths and diseases caused by air pollution.²⁶ The Tribunal is not in a position to verify the said figures, nor expresses any opinion about the correctness thereof. It is made clear that this order is not being based on the said figures but on the data compiled by the CPCB. The fact that number of NACs is rising steeply even though the monitoring regime does not cover all the regions in the country, is evidence of exponential rise in pollution. It also reflects inadequate monitoring and enforcement mechanism. The trend needs to be reversed by paradigm shift in monitoring and enforcement mechanism. The rule of law requires that a person committing an offence or violation is made accountable to law by punishment and by being required to pay monetary compensation on 'Polluter Pays' principle. CPCB must forthwith come out with a compensation regime

²⁶ **Report by the Indian Council of Medical Research** has stated- In 2017, air pollution accounted for 12.4 lakh deaths in India, which included 6.7 lakh deaths due to outdoor particulate matter air pollution and 4.8 lakh deaths due to household air pollution. [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(18\)30261-4/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(18)30261-4/fulltext) **As per the Lancet Journal-** In 2017, 1.24 million deaths occurred in India, which were 12.5% of the total deaths, all attributable to air pollution, including 0.67 million from ambient particulate matter pollution and 0.48 million from household air pollution. Of these deaths attributable to air pollution, 51.4% were in people younger than 70 years. India contributed 18.1% of the global population but had 26.2% of the global air pollution DALYs in 2017. https://www.business-standard.com/article/current-affairs/air-pollution-kills-1-2-mn-indians-in-a-year-third-biggest-cause-of-death-119040300300_1.html **The study titled "State of Global Air 2019" reported** that Air pollution kills 1.2 mn Indians in a year, third biggest cause of death.

as long time has already gone by. The Air Act has been in operation for the last 38 years. With the expertise and data already available, the compensation regime can be finalized preferably within one month. While 'Sustainable Development' and 'Precautionary' principle may *inter-alia* require planning for reducing pollution, violation of norms cannot continue without remedial action. Law has to be enforced without waiting for any further time by suitable regulatory action by way of prosecution and by recovery of compensation. Since it appears that prosecutions are not even remotely proportionate to the extent of violation and may have their own limitations and constraints for the authorities, there is no justification for not taking prompt action by way of compensation recovery to enforce rule of law.

g. Further observations

19. As per the CPCB report dated 15.07.2019, there is a proposal for national level target of 20-30% reduction of PM_{2.5} and PM₁₀ concentration by 2024 under the National Clean Air Programme (NCAP) keeping 2017 as the base year. The timelines to reduce the air pollution by 20%-30% by 2024 needs to be reduced and the target of reduction needs to be increased, having regard to adverse effect on public health and in view of constitutional mandate of fundamental right to breathe clean air. Violation of such fundamental right cannot be allowed to be continued for such a longer time. The NCAP needs to be modified accordingly and a modified plan notified and implemented by the State instrumentalities in letter and spirit.
20. We note that the air pollution caused by DG Sets needs to be part of the action plans which may, if necessary, require retrofitting of

emission-control devices on generators already in use. CPCB may consider this aspect. The NCAP itself provides following action points:

- “1. Introduction of gaseous fuels and enforcement of new and stringent SO₂- NO_x /PM_{2.5} standards for industries using solid fuels.
2. Stricter enforcement of standards in large industries through continuous monitoring.
3. Full enforcement of zig-zag brick technology in brick kilns.
4. Elimination of DG set usage by provision of 24x7 electricity.
5. Control by innovative end of pipe control technologies.
6. Evolve standards and norms for in-use DG sets below 800 KW category.
7. For DG Sets already operational, ensure usage of either of the two options: (a) use of retrofitted emission control equipment having a minimum specified PM capturing efficiency of at least 70%, type approved by one of the 5 CPCB recognized labs; or (b) shifting to gas-based generators by employing new gas-based generators or retrofitting the existing DG sets for partial gas usage
8. Utilize the Gujarat case study for a compelling case for other states to adopt third-party audits for polluting industries for enhancing implementation(States).”

Thus, DG Sets should also be covered by the action plans for all the States/UTs.

21. The action plans also need to incorporate provisions for action against black carbon generators.
22. One of the causes of air pollution is growth of unplanned industrial activities in residential areas. At some places, such activities though prohibited, have been regularized without regard to environmental norms. The same can no longer be allowed to continue and provision has to be made for closing/shifting as per law laid down in *M.C. Mehta vs. Union of India*, (2004) 6SCC 588. The master plans need to be reviewed and wherever such activities are against existing or new norms, the same need to be closed/shifted.

the installation of the limiter meters on noise generating equipments to be economically less viable. This cannot be a ground for not requiring such limiters to enforce the norms of noise pollution on the pattern followed in the States of West Bengal and Tripura. This Tribunal has already issued a direction in the context of Delhi to that effect that noise limiters in sound systems be installed and/or retrofitted, vide order dated 01.08.2019 in O.A. No. 519/2016, *Hardeep Singh & Ors. vs SDMC & Ors.* The said directions will apply to all the States/UTs. Appropriate notifications may be issued by the CPCB/SPCBs/PCCs within three months about the limiters being installed. The compensation regime for noise pollution needs to be worked out within one month by CPCB.

Directions:

26. In view of above discussion, we issue following directions:

- I. CPCB, SPCBs and PCCs need to ensure assessment and installation of the requisite number of real time Online Continuous AAQMS within six months from today and indicate progress in this regard before the next date.
- II. The Expert Team of CPCB to design a model/SOP for source apportionment and carrying capacity assessment within two months which may be replicated for all the NACs. In the light of such study, further action may need to be considered by MoEF&CC within three months thereafter in terms of regulating the number of vehicles, action in terms of shift to e-vehicles and CNG vehicles, intensifying public transport system, mechanical cleaning of roads, enhancement of public

parking facilities etc., improvement in fuel quality and traffic management, regulation of construction activities, strict adherence to siting guidelines with regard to stone crushers, mining, brick kilns, thermal power plants, coal handling, air polluting industries, hot mix plants, etc. Besides, activities like crop burning and burning of trash wood/leaves/debris for heating in winters to be strictly regulated and violations penalized as has been done by notifications for ESZ, CRZ, Ganga Flood plains etc.

- III. Concerned Town & Country Planning departments (with whatever be the name in the State) of all the States/UTs may ensure review of master plans specially for the NACs to be consistent with carrying capacity and source apportionment study reports within six months of such reports being available and furnish compliance reports to this Tribunal and CPCB.
- IV. Concerned States may evolve enforcement mechanism for closing/shifting of industrial units other than household industries from residential/non conforming areas in the light of law laid down in *M.C. Mehta vs Union of India*, (2004) 6SCC 588.
- V. SPCBs/PCCs need to develop interactive public grievance redressal portals on the pattern of CPCB portal “Sameer” within two months if not already done.
- VI. Actions Plans need to be prepared by States for the additional 20 NACs on the pattern of 102 NACs within three months and after its approval by CPCB within two months, States must initiate time bound action on remediation within next three months.

- VII. CPCB may finalize the pending action plans within two months. Environmental compensation may be deposited by the defaulting States in terms of our order dated 15.03.2019 with the CPCB.
- VIII. Timeline prescribed for reviewing action plans with regard to its report dated 15.07.2019 by the CPCB for further micro planning may be reduced from six months, preferably to four months. CPCB may give appropriate directions to the SPCBs/PCCs accordingly.
- IX. CPCB must forthwith come out with a compensation regime within two months for air as well as noise pollution to the extent such norms have not yet been laid down.
- X. Having regard to adverse impact on public health and constitutional mandate that right to clean air is a fundamental right, the MoEF&CC may modify the NCAP by reducing the timelines and increasing the target for reduction of air pollution.
- XI. Noise Limiters need to be installed on potential noise polluting devices, including retrofitting the existing devices. Appropriate directions be issued by the States/UTs within three months in the same manner as directed by this Tribunal for Delhi vide order dated 01.08.2019 in *O.A. No. 519/2016, Hardeep Singh & Ors. vs SDMC & Ors.*
- XII. The CPCB may also evaluate existing air quality monitoring mechanism of all States and UTs and furnish a report to this Tribunal before the next date in terms of capacity of its scientific and technical personnel both in terms of number of

personnel and skill/competence and outreach programmes on public awareness and suggestions for improvement.

XIII. The CPCB and States may have robust Emergency Response System and preparedness by way of mock drills and measures to be taken in the scenario when air pollution levels become severe plus and severe.

XIV. The SPCBs and PCCs to submit details of 'consent' funds to CPCB and this Tribunal within two months alongwith Action Plans on the basis of template provided by CPCB. CPCB may scrutinize and approve such action plans within two months in accordance to our order dated 22.01.2019 in O.A. No. 101/2019. Finally, the State PCBs and PCCs may execute their Action Plans within next one year thereafter.

XV. The Environmental Compensation levied by State Transport Departments may be divided in the ratio of 50:25:25 amongst the States, the SPCBs/PCCs and the CPCB.

Let further compliance reports be filed before the next date.

List for further consideration on 15.11.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 06, 2019
Original Application No. 681/2018
(I.A. No. 411/2019)
DV



Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 33/2014/EZ

Subhas Datta

Applicant(s)

Versus

State of West Bengal & Ors.

Respondent(s)

Date of hearing: 18.09.2020

Date of uploading on: 01.10.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Subhas Datta (in person)

For Respondent(s): Mr. Abhratosh Majumdar, Senior Advocate a/w Mr. Bikas Kargupta, Advocate for Respondent Nos. 1 & 2.
Mr. Dipanjan Ghosh, Advocate for Respondent No. 3.
Mr. Gora Chand Roy Choudhury, Advocate for Respondent No. 4.
Mr. Kallol Guhathakurta, Advocate for Respondent No. 8.
Mr. Surendra Kumar, Advocate for CPCB.

ORDER

1. This case was taken up for compliance of the direction contained in paragraph 42 of the judgment dated 11.08.2016 in O.A. No. 33/2014/EZ. In substance, therefore, the case is for execution of the said directions. Report of compliance was filed by the State Respondents

1 & 2 being the Principal Secretary, Department of Transport and the Department of Environment, Government of West Bengal which was taken up on 16.08.2017. By order of that date, we had observed as follows:

“We had specifically referred to the order of the Hon’ble Calcutta High Court and notifications issued in pursuance thereto most categorically and unambiguously set out in paragraph 39(1) of the judgement and directed strict compliance. It may not be out of place to note that this direction was issued in the light of our observations contained in paragraphs 23 to 28 of the judgement from which it will be manifest that steps for combating the menace of air pollution had been indicated way back in the year 2008 as will be apparent from the Govt. Notification dated 17th July, 2008, whereby concrete steps had been proposed. However, it is disappointing to note that there is laxity on the part of the Government to implement it.

Mr. Bikas Kargupta, Ld. Govt. advocate, referring to the affidavits of compliance filed on behalf of various Departments, submits that the directions have been complied with. We are, however, not satisfied with the submission. We call upon the applicant, Mr. Subhas Dutta to go through the affidavits and file an affidavit indicating extent of compliance made by the Govt. respondents to our order.

It may not be out of place to observe here that much water has flown down the river Hooghly after the judgement was passed in August, 2016. The Hon’ble Supreme Court in a recent order has directed that all vehicles plying in NCR Delhi should be converted to EURO-6/BS-VI by 2018 for which purpose, the Govt. has been directed to deliberate with the auto manufacturers. It also may be of relevance to take note of the latest report on the alarmingly high level of pollution in terms of emission of NOx by vehicles using diesel as compared to petrol driven ones.”

2. *Vide* order dated 25.01.2018, we had noted that the report filed by the State was far from being satisfactory and directed the State to deal with the points indicated by the Applicant by way of a supplementary affidavit. Considering the disturbing trend of deterioration of the

Ambient Air Quality (AAQ) as per information downloaded from the website of the West Bengal Pollution Control Board (WBPCB), a Committee was directed to be constituted comprising of an expert from each of the following organisations:

- (i) West Bengal Pollution Control Board;
- (ii) Central Pollution Control Board (CPCB);
- (iii) NEERI;

3. The Regional Officer of the CPCB was directed to head the Committee. The Terms of Reference (ToR) of the Committee was to study and monitor the AAQ in the cities of Kolkata and Howrah and while doing so, also to carry out source apportionment of the air pollution and to suggest mitigation measures. Reference was also made to the case of *Vardhaman Kaushik v. Union of India and Ors.*¹ in which the CPCB and the Delhi Pollution Control Committee (DPCC) had been directed to make arrangement for providing proper mechanism and instruments to check emissions of moving overloaded heavy vehicles, as measuring the emissions of stationary

¹ O.A. No. 21/2014

vehicles, particularly transportation vehicles, would not depict the correct data.

4. Similar directions were issued upon the Regional Office of the CPCB, Kolkata and WBPCB to take appropriate action for compliance of such directions.
5. By order dated 24.08.2018, Department of Transport, Government of West Bengal was directed to submit the data of the number of vehicles which were 15 years old and plying in the city of Kolkata. The case was further considered on 27.11.2018, when we observed as follows:

- “4. The principal reason for the bad ambient air quality in the city of Kolkata and Howrah was identified to be auto emission apart from road dust, construction activities, burning of municipal waste and industrial wastes including plastics, population of DG sets and industrial emissions. We had noted that the State had failed to take any effective measures to control the source of such emission. Specific directions had also been issued for phasing out vehicles which were more than 15 years old apart from taking other measures as a step to deal with the menace.**
- 5. We had further observed that even the Hon’ble Supreme Court was in seizin of such matter apart from the NGT (PB) with regard to the question of serious deleteriousness of auto emission. We had also referred to the directions of the Hon’ble Supreme Court by which introduction of EURO-VI standard vehicles was called for from the year 2020 and the orders of the Tribunal in furtherance of the orders passed by the Hon’ble Supreme Court for phasing out old vehicles.**
- 6. The affidavits filed by the State respondents had been considered even on 25.01.2018 and we had expressed that the so called compliance were far from being satisfactory. We had thus directed the state respondents to deal with each of the points by filing a better affidavit. We had noticed, as would be apparent from order dated 25.01.2018, that the level of So₂, PM_{2.5}, NO₂ and PM₁₀ in the city of**

Howrah was far in excess of the permissible standards.

7. *Referring to the case of Vardhaman Kausik Vs. Union of India & Ors., O.A. No. 95/2014, we had directed the State respondents to introduce some mechanism and instruments to check emissions of moving overloaded heavy vehicles in order to collect the true data of emission as it was not possible to do so in stationary vehicles. The State Respondents had also been reminded of the need to convert all commercial transport vehicles to CNG which was also the subject matter in Original Application No. 56/2015/EZ. This was followed by order dated 24.04.2018 when the Additional Chief Secretary, Department of Transport was also present as directed vide order dated 19.04.2018. Even on that day, the affidavit of the Additional Chief Secretary was not correctly filed. However, we had taken it on record for dealing with the matter in substance rather than in form.*
8. *As a fallout of the previous proceedings and the report of the Additional Chief Secretary, Department of Transport, we had directed that the Department should file a data on the number of vehicles which were 15 years old plying in the city of Kolkata in the first instance.*
9. *On the prayer of learned Additional Advocate General, the National Informatics Centre (NIC) was also impleaded as party as it would be in possession of the data pertaining to various vehicles plying in the city and Mr. Tapan Kr. Das, Senior Technical Director, NIC who was present had accepted the notice on behalf of the Centre.*
10. *Unfortunately, inspite of more than seven months having elapsed after the order dated 24.04.2018, no tangible action taken by the State has been placed before us. The State Pollution Control Board has remained blissfully silent in spite of the fact that it is the primary responsibility of the Board as a regulatory authority to ensure that the ambient air quality is maintained within the permissible limit. In the meanwhile, it is an undeniable fact that the ambient air quality has deteriorated. In M.C. Mehta Vs. Union of India² has been held that decline in quality of environment reflects failure of the authorities to perform their obligation under the Constitution and the mandate of laws. If the regulatory authorities either connive or act negligently by not taking prompt action to prevent, avoid or control damage to environment, natural resources, people's health and property, the principle of accountability for restoration and compensation have to be applied. We may refer to M.C. Mehta vs. Union of India³ in this regard. Apart from this, the Hon'ble Supreme Court has also laid*

² (1996) 6 SCC 12

³ (2004) 12 SCC 118

down that the accountability cannot be restricted to the polluter alone but also upon the governmental agencies who are responsible for enforcement of the laws to prevent pollution.

- 11. Mr. Abhratosh Majumdar, learned Additional Advocate General who is present for the State Government prays that he may be permitted to file a comprehensive affidavit dealing with all aspects as per directions contained in the judgement. While allowing the prayer, we are of the view that the State respondents cannot be let off without paying a reasonable sum as environmental compensation for the continued lapse on its part and in permitting the ambient air quality to deteriorate resulting in the people having to suffer serious hazards of health for all these years.*
- 12. We accordingly direct the State of West Bengal to pay a sum of Rs. 5 Crores as interim environmental compensation which shall be deposited with the Central Pollution Control Board. The amount shall be deposited within a period of two weeks from hence, failing which it shall entail further compensation of Rs. 1 crore per month of delay. This is being imposed following the 'Polluter Pays' Principle in terms of Section 20 of the National Green Tribunal Act, 2010 and also the laws alluded to above."*

6. The Principal Secretary, Department of Transport, Government of West Bengal filed an affidavit on 04.01.2019 which was taken up on 08.01.2019 in which it was stated that a sum of ₹5 Crores had been deposited with the CPCB against the interim Environmental Compensation as directed *vide* order dated 27.11.2018 and that the State Government had also taken steps to implement the directions contained in the judgement dated 11.08.2016 for improvement of air quality by *inter alia* having Air Monitoring Stations, complying with the rules relating to waste disposal, carrying out Source Apportionment Study, launching Air Quality Index alert

system, displaying air quality data in electronic display boards, phasing out commercial vehicles which are more than 15 years old, traffic re-engineering to remove congestion, replacing traffic signals within circular roundabout and using technological advancements, etc.

7. Accordingly, the Tribunal deemed it appropriate to grant a reasonable time of seven months to the State considering the nature of the exercise to be undertaken. The case was then taken up on 20.09.2019, when we expressed our dissatisfaction with the affidavit filed by the Secretary, Environment Department, Government of West Bengal, as it was found to be vague and *devoid* of any tangible action having been taken. It was observed that:

“3.

Except for stating that orders have been issued, nothing tangible appear to have been done in compliance of the directions issued in the judgment dated 11.08.2016 in O.A No. 33 of 2014. The aspects pointed out in the order dated 08.01.2019 appear to have been left in the realm of hypothesis. We notice absolute indifference on the part of the State Government to directions of Tribunal. We asked from Mr. Bikas Kargupta, learned Counsel for the State Government as to who the authority responsible for the work was so that appropriate directions could be passed but he was unable to give any satisfactory answer.

4. *Since the matter has prolonged due to the recalcitrant attitude of the State Government, we direct the Chief Secretary of Government of West Bengal, to be present before us on the next date to explain as to why coercive orders should not be passed. As the environmental degradation is continuing unabated due to the lackadaisical attitude on the part of the State, we direct payment of further interim compensation of Rs. 10 crores to*

be deposited with the Central Pollution Control Board within 15 days from hence having regard to paragraph 12 of the order dated 27.11.2018. Compliance report shall be filed within one month from hence.”

8. Pursuant to the above directions, the Chief Secretary, Government of West Bengal, filed his affidavit which was taken on record on 04.09.2019. Vide order of the said date, the submission of the learned Additional Advocate General (AAG) was also recorded to the effect that directions had been issued by the Government to all the concerned authorities to comply with the orders of the Tribunal within a time frame. In this regard, minutes of meeting in which such decision had been taken was also filed. While appreciating the steps taken, the State was directed to file an Action Plan giving a comprehensive approach prescribing timelines for each of the factors to be strictly adhered to and also spelling out the penal consequences for failure to meet the timelines. There were other directions passed thereafter but those may not be cited except to note that the affidavits filed by the State were again found to be unsatisfactory leading the Tribunal in directing the State to file better affidavits.
9. The case was then worked on 04.02.2020 when an affidavit dated 04.11.2019 filed by the Chief Secretary,

Government of West Bengal, was taken on record. The Applicant on his part had filed a response pointing out delay in implementation of the directions of the Tribunal contained in the original judgement particularly relating to legacy dump, open burning of waste, water sprinklers, clean fuel to road side eateries, phasing out of 15 years old commercial vehicles, entry of Non-Bharat Stage (BS) IV vehicles within the cities of Calcutta and Howrah, phasing out of old vehicles as per the *Vardhaman Kaushik* Judgment, afforestation and long term air quality management plan, etc.

10. By order dated 04.11.2019, the State Government was once again directed to prepare a detailed Action Plan giving specific timelines for implementation of such plan and making it clear that the timeline should not be inordinately long as considerable time had lapsed since the directions had been issued.
11. When the matter was taken up on 06.07.2020, further time was sought for by learned Additional Advocate General to place on record the Action Plan on the ground that the report received from NEERI which, according to

him, would alter the complexion pertaining to the AAQ in Kolkata and Howrah. Six weeks' time was accordingly granted making it clear that the report filed by NEERI should not be used as a ploy to scuttle the process already initiated and instead be harmonized to continue with the ongoing work of mitigation of AAQ.

12. In compliance of the above, report has been filed by the Chief Secretary, Government of West Bengal, to place on record an approved Action Plan addressing the various issues involved in the case. For convenience, we may reproduce the report as under:

“(i) Burning of Leather Waste

a) To dispose of leather waste generated from tanneries safely, KMDA, with financial assistance from Micro Small Medium Enterprise 86 Textile, Govt. of West Bengal, has already taken up the work of Sanitary Land Fill in one acre of land at Adulgori Mouza adjacent to the Calcutta Leather Complex (CLC). Work shall be completed within March 2021.

b) To resolve the issue permanently, KMDA has also taken up a project called "CFC Building for Shaving Scrap Burner's at Calcutta Leather Complex" at a cost of Rs. 18.44 crore, with financial assistance from Govt. of India & Govt. of West Bengal.

Tenders have been floated on 10.06.2020. The expected completion time is 18 (eighteen) months after the issuance of work order. The report of KMDA on above and progress of work in other related areas is annexed herewith and marked as Annexure R/1.

(ii) Legacy Dumpsite

12.14 hectare land at Dhapa has already been remediated after scientific closure of the landfill

site. KMC has also taken up Bio mining of legacy waste as a short term measure by pressing into service a trommel of @300 TPD capacity for Bio-mining of legacy waste on rental basis [based on Piranna model]. 25,535 MT legacy waste has already been treated in 3 months. Bio-remediation work is continuing. KMC has extended the work order issued to M/s Eastern Organic Pvt. Ltd. for further period of 03 months. In addition to the above, KMC has also floated a separate Tender for supplying additional 2 nos. of trommels of 300 TPD capacity (each), for enhancing the speed and quantum of bio-remediation work.

For long-term planning, re-tender for bio-mining of legacy waste (around 40,00,000 MT) from 60 acre of land at Dhapa was published on 28th Jan'2020 and Technical Bid was opened on 20th Feb'2020. The Bid-Evaluation Committee has asked for some documents from the bidders, but due to lock down the process could not be completed.

(iii) Open Burning of Waste

KMC has taken all initiatives including adopting a Resolution in the Mayor-in-Council's meeting to stop open burning of waste. KMC officials are on strict vigil within KMC's jurisdiction in respect of open burning of solid waste within the city.

10 (Ten) Notices were issued to offenders from SWM department for open burning of solid waste in respect of simple burning at different places within KMC jurisdiction.

Till now, Environmental Compensation has been realized from two offenders @ Rs. 5,000/- in each case.

Fire tenders have been deployed on continuous basis from 3rd Dec'2019 at Dhapa to douse fire whenever necessary and the system is still continuing.

(iv) Water Sprinklers

Air pollution levels at present in the city of Kolkata and Howrah are more or less within the permissible limits due to the monsoon and also because of COVID 19 restrictions.

An assessment of Impact on Air Quality from March 2020 to July 2020 as prepared by WBPCB is annexed herewith and marked as Annexure R/ 2.

Last winter, KMC had procured 20 nos. of 9 KL capacity water sprinklers which were deployed at different locations within KMC area to suppress suspended dust particles. During monsoon, water sprinkling is not necessary. This winter season also, water sprinkling will be done on major roads within KMC area to suppress road dust, a major

source of air pollution as identified by NEERI in its study.

(v) Clean Fuel To Roadside Eateries

PCB has already distributed 750 gas ovens in Bidhannagar Municipal Corporation (BMC) area, 1800 nos of gas ovens in KMC area and 224 nos. of gas ovens in Howrah Municipal Corporation (HMC) area to road-side eateries. KMC has floated tender for 200 nos. of smokeless Chullah on 18th Jan, 2020. Three bidders participated. Due to lock down technical evaluation process got unavoidably delayed. KMC is in the process of issuing Work Orders to the successful bidder shortly.

Tender for 60 tons pellets was opened on 27th Jan' 2020. Work order has been issued on 14/03/2020 but supplier has been unable to supply due to Lockdown and other Covid 19 related restrictions.

(vi) Afforestation

The West Bengal Pollution Control Board has taken up a massive programme of planting 10,000 saplings expected to be completed by 31.8.2020 alongside E.M Bye-pass and VIP Road area of Salt Lake, Lake Town and New Town. KMC has also under taken on planting 50,000 trees/saplings during the monsoon of 2020 in Kolkata city and its suburbs to compensate for the uprooting of trees during UMPHAN cyclone in May 2020.

Report of Kolkata Municipal Corporation is annexed herewith and marked as Annexure R/3.

(vii) Phasing Out Old Commercial Vehicles

A Committee was constituted by the Transport Department vide order No. 4652-WT/3M-10/2018 (Pt-1) dated 4th Dec, 2019 regarding phasing out of old commercial vehicles following the Vardhaman Kaushik Judgement. The Committee consisted of officials from various Departments. From March, 2020 onwards the Committee could not meet regularly due to lock down. The Committee needs some more time to submit its findings and recommendations. The Committee has submitted a summary of the qualitative and quantitative approach adopted for the study and methodology used for data collection, analysis and interpretation to this Department on 30.07.2020. Final Report of the Committee will be submitted before this Honble Tribunal by the Transport Secretary, Government of West Bengal by a supplementary Affidavit, if kindly allowed. A copy of the report of the Transport Department along with the report of the Committee is annexed herewith and marked as Annexure R/4 (colly).

(viii) Entry of Non-Bharat Stage IV vehicles within the City of Kolkata and Howrah.

Sub-Rule (15) of Rule 115 of Central Motor Vehicles Rules, 1989 was inserted vide MORTH Notification No. G.S.R. 84(Ej dated 09.02.2009. All four-wheel vehicles manufactured on or after 01.04.2010 came under BS-IV emission standards in the city of Kolkata, and in some other cities, vide this amendment whereas, the rest of the areas of the State of West Bengal still remained under BS-III emission regime.

Even then, the four-wheel transport/ commercial vehicles plying on inter-state permits or national permits or All India Tourist Permits were exempted from this amendment i.e. these category of motor vehicles of BS-III emission standard were still eligible to be registered in Kolkata.

In this backdrop, the Transport Department, GoWB vide Notification no. 2767-WT/ 3M-21/2012 dated 07.08.2012 allowed grant of inter-state permits or national permits or All India Tourist permits to four-wheel BS-III transport/commercial vehicles registered in West Bengal. Similarly, All Bengal Permit for Goods Carriage or Contract Carriage was also allowed to BS-III compliant four-wheeled motor vehicles which were registered outside Kolkata.

Thus, even the BS-III compliant goods carriages registered on or after 01.04.2010 and which are less than 15 years old are still eligible to enter Kolkata as per Central Motor Vehicle Rules, 1989. Similarly, the BS-III compliant vehicles plying under Inter-

Regional Stage Carriage permits originating from outside Kolkata but terminating inside Kolkata were also allowed to ply by the above mentioned notification.

However, in pursuance of the orders of Hon'ble NGT dated 11.08.2016 and 26.05.2017, non-BS-IV transport Vehicles registered outside the jurisdiction of Kolkata and Howrah were not allowed to remain in the twin cities beyond seven days vide notification No. 3244-WT/8S-96/2014 dated 14.07.2017. Exemption has been allowed to BS-III compliant inter-regional stage carriages which ply on specified routes and enter the city during specified time-schedules. Similarly, exemption has been allowed to BS-III compliant All-Bengal Contract Carriages registered outside Kolkata which enter the city carrying passengers only on contract as per the provisions of Motor Vehicles Act, 1988.

Since 01.04.2019 all the Auto Emission Testing Centres (AETCs) in West Bengal have been web-linked with VAHAN 4 cloud server after having their respective machines upgraded and calibrated. PUC Certificates are now system-generated, leaving hardly any scope to manipulate the test results. BS-III emission standard has its own test parameters in accordance with CMVR, 1989. PUC certification of a

transport vehicle has been automatically linked with other VAHAN 4 based transaction of that vehicle in order to ensure compliance. Hence, non-BS-IV transport vehicles also have to maintain engine and emission standards to remain fit and roadworthy.

(xi) Long Term Air Quality Management Plan

A long-term action plan has already been prepared (was submitted to this Hon'ble Tribunal on 12.12.2019) and is currently under implementation in Kolkata and Howrah. This is in consonance with NCAP schedule and approved by the Central Pollution Control Board.

4. *On 06.07.2020 the matter was heard by the Hon'ble NGT where the Tribunal was pleased to direct the State Government to submit an updated Action Plan in the light of NEERI's report alongwith specific timelines. The progress so far is given below:*

i. *Pursuant to the Order of the Hon'ble National Green Tribunal, a Source Profile Study in Kolkata and Howrah was initiated by West Bengal Pollution Control Board. CSIR- NEERI was assigned the study for assessing emission inventory and source apportionment in the twin cities of Kolkata and Howrah. Accordingly, NEERI conducted "PM-10 86 PM-2.5 Source Apportionment (SAP) and development of Emission Inventory of Twin Cities of Kolkata and Howrah of West Bengal". The study comprised of:- (1) Ambient Quality Monitoring (2) Development of emission inventory, (3) Receptor modelling for source apportionment. Sampling for PM-10 and PM-2.5 was carried out during summer (2017) and winter (2017-18) on 12 sampling locations for at least 10 days in each season. The sampling locations were selected based of reconnaissance survey, historical data analysis using statistical techniques. A copy of NEERI's Report is annexed herewith and marked as Annexure R/5.*

ii *Air pollution is a seasonal phenomenon in the cities, Kolkata and Howrah, both being located at the tail end of Indo-Gangetic Plains. The problem of air pollution during late October to mid March, in Kolkata and Howrah is not exceptional. The primary reason is said to be intrusion of particulates from North North West region and formation of secondary particulates. During summer in*

Kolkata Howrah PM_{2.5} was observed to be below the CPCB limit at all locations except for a few days at Shyambazar and Minto Park. PM₁₀ exceeded the CPCB standard more frequently than PM_{2.5}.

- iii. ***The major contributor of PM₁₀ during summer in Kolkata has been found to be vehicles (22%), road dust (20%), secondary inorganic aerosol (19%), domestic and commercial combustion activity (16%) and construction activity (12%). With regard to PM_{2.5}, the major contributors have been found to be domestic combustion activity (35%), vehicles (22%), secondary aerosol (20%), road dust (10%) and open burning (6%).***
- iv. ***During winter, major contributors to PM₁₀ have been found to be secondary aerosol(22%), wood combustion(17%), unaccounted 13%) coal combustion (12%) , vehicle (10%) , road dust(10%) , open burning (9%), construction (7%). As regards PM_{2.5}, the major contributors in winter season in Kolkata have been found to be secondary aerosol (32%) followed by vehicles (25%), wood combustion (15%), unaccounted (13%), coal combustion (9%) and open burning (5%).***
- v. ***During summer, the vehicle segment has been observed to contribute to the extent of 31% of PM_{2.5} in Howrah followed by secondary aerosol (27%), unidentified mass 12%, coal and wood combustion (11%). In winter, however, the major contributor to PM₁₀ in Howrah has been found to be secondary aerosol (20%) which is next to wood combustion (24%). Other contributors are coal combustion and road dust both 13% each, vehicle 11%, unaccounted (9%), construction (6%) and open burning (2%). In respect of PM_{2.5} it has been found by NEERI that in Howrah, major contributors were vehicles (31%), followed by secondary aerosol (27%), unaccounted source (12%), wood and coal combustion (11%) each, open burning (4%), road dust (2%) and curricular burning (2%).***
- vi. ***NEERI has observed that "comparing the result for both winter and summer, it is observed that for PM_{2.5}, biomass burning has slightly increased in winter in Kolkata. In Howrah, biomass***

burning contribution has decreased in winter. Fossil fuel burning has decreased considerably in Kolkata in winter as compared to summer. In Howrah, the fossil fuel burning has increased significantly. Road dust (& construction) contribution has also reduced during winter for PM_{2.5} and taken over by secondary aerosol contribution. In PM₁₀, biomass combustion has considerably increased in Kolkata in winter. In Howrah, it is almost similar during summer and winter. Fossil fuel combustion in winter has slightly reduced in Kolkata and Howrah. Road dust (& construction) contribution has been reduced in Kolkata.

- vii. Another significant observation of, NEERI Report is regarding comparative scenario of PM₁₀ and PM_{2.5} emissions from select types of vehicles in Kolkata and Howrah municipal areas. In respect of Kolkata, 49% PM₁₀ emission from the vehicles sector has been found to be coming from goods carriers, buses and omnibuses contributed 24% whereas motor cars (personal) and motor cabs (commercial) of both Petrol and Diesel variants contributed only 6% of the vehicular contribution. In respect of PM_{2.5}, 49.5% of vehicular PM_{2.5} emission has been found to be coming from goods carriers and 23.6% from bus and omnibuses. Only 6% has been contributed by motor cars of both Petrol and Diesel variants.*
- viii. In case of Howrah major PM-10 contributor has been found to be goods carrier to the extent of 67%, bus and omni buses 13.3% whereas motor cars (personal & commercial) of both of Petrol and Diesel variant only 1.5%. PM_{2.5} emission inventory in respect of Howrah also shows more or less a similar picture. 67% comes from goods carriers, buses and omni buses 13.3%, and motor cars plus cab's contribution is limited to only 1.5%.*
- ix. From the above, it is seen that NEERI study has altered some of our conventional notions about major pollutants during winter. Regarding vehicular pollution, major contributors are goods vehicles followed by buses and omni buses and the contribution of motor cars and motor cabs is relatively less significant. Our major areas of concern are vehicle, road dust and*

secondary inorganic aerosol. Based on the study of NEERI and as per the recommendation of West Bengal Pollution Control Board, Action Plan has been suitably fine-tuned to keep the major polluters under control especially during winter both in Kolkata and Howrah.

CONTROL OF SECONDARY AEROSOL

The pie charts of NEERI's Report clearly describe that one of the major constituents of air pollution during winter is secondary aerosol, probably formed by salts in the atmosphere by chemical reactions with anthropogenic 'anions' and naturally occurring 'cations'. It is a natural phenomenon and ought to be self-neutralised. But during winter, it is contributing a major percentage of particulate matter in the region and a cause of concern for the entire Indo Gangetic plains. NEERI demonstrated intrusion of particulates through Indo Gangetic plains in winter months; however, it is not known whether the formation is happening locally or intruded from outside. This is an area that requires further study and research.

The WBPCB has signed a MoU with IIT-Delhi to conduct research inter alia on the formation of secondary aerosols in air with special reference to lower Gangetic West Bengal. Prof. Sagnik Dey of IIT Delhi will lead the project. Prof. Gazala Habib, IIT Delhi has also agreed to work in this project. Further corrective action can be taken on receipt of the said Committee's report and recommendations.

An updated action plan as per NEERI's Report and the present status of different activities from different Government Departments and WBPCB is annexed herewith and marked as Annexure R/6 (Colly).

It is humbly pointed out that the progress of work undertaken by various Departments is unavoidably getting delayed due to the ongoing lockdown and Covid 19 related restrictions. The progress of works is, however, being monitored at least once in a month both in inter and intra Department meetings by the concerned Secretaries. All concerned Departments/agencies and WBPCB have been asked to gear up for taking all preventive measures well ahead of coming winter season so that air quality can remain at satisfactory levels."

13. While accepting the Action Plan, we find that there are certain areas which require to be looked into by the State Government and the regulatory authorities including the State PCB which are as follows:

- (i) The report on the Legacy Dumpsite at serial no. 4(ii) reproduced above states that *“12.14 hectare land at Dhapa has already been remediated after scientific closure of the landfill site.”* This gives an impression that the landfill site has been capped. If that be so, it is not clear as to how it has been done. Legacy waste requires to be treated by bio-mining and the inert waste dumped at the scientific landfill site in terms of Clause (j) of Schedule 1 of the Schedule to the Solid Waste Management (SWM) Rules, 2016. We, therefore, make it clear that closure of the landfill site if done in any other manner would not be permissible under the SWM Rules, 2016 and, therefore, requires to be corrected by ensuring compliance of the procedure prescribed therein.
- (ii) The next, on the same question is with regard to use of the trommel, which is stated to be only one in

number and likely to be increased by two additional ones. Considering the volume of the legacy waste at the Dhapa dumpsite, the use of only three trommels for bio-remediation would be grossly inadequate which is likely to result in the quantum of waste to be bio-mined not being able to match the waste being dumped at the site daily. Ideally, quantum of bio-remediation should exceed the quantum of waste being dumped to ensure successful clearance of the site by bio-remediation within a specified timelines.

- (iii) We accordingly direct the State to ensure installation sufficient number of trommels to be used at the Dhapa dumpsite.
- (iv) We also deem it essential to constitute a Committee comprising of (i) the CPCB; (ii) the NEERI and, (iii) the State PCB, to assess the damage to environment and cost of its restoration/remediation on account of waste at the site currently which would include both the legacy waste (old waste and the current waste). The Committee shall also examine the current practices and propose means to accelerate the pace

of bio-remediation of the legacy waste. The entire exercise shall be completed within two months from hence. The State PCB is directed to be the nodal agency.

14. The next question that we find the State lagging in is with regard to phasing out of old commercial vehicles as evidently no serious effort is being made in this regard. The Committee constituted by the State Government to deal with this also appear to be dragging its seat and has now taken the convenient plea of the locked down due to Covid-19 pandemic. We, therefore, require the Transport Department, Government of West Bengal, to ensure that the final report of the Committee is submitted in not more than three months days from hence. We may also note that in O.A. No. 681/2018, remedial action for air pollution in 122 Non-Attainment Cities (NACs) in the country is being considered, which also includes the cities of Kolkata and Howrah. Various directions have been passed to deal with the menace of air pollution and many of the directions overlap the ones we have issued. Amongst them is the exercise for undertaking studies of source apportionment and carrying capacity. The State

Government is expected to comply with the directions issued in that case, last of which was order dated 21.08.2020.

15. The next is the entry of non-Bharat Stage IV vehicles within the cities of Kolkata and Howrah. It is high time for the State to ensure that the public transport vehicles below BS-IV are phased out rapidly to arrive at a stage when only BS-VI would ply in the two cities to be extended gradually to the rest of the State. Exemption being permitted to BS-IV compliant vehicles, in our considered opinion, is an antithesis to the environmental law and a licence to pollute the air to the detriment of the health of the people and, therefore, violation Article 21 of the Constitution. All considerations override environmental health and Sustainable Development Principle as well as the Precautionary Principle which are now accepted as part of Article 21 of the Constitution. We, therefore, direct the State to ensure phasing out of all vehicles, both private and public transport system which are BS-IV compliant in a time bound manner.⁴ Further delay in complying with this would amount to abdication

⁴ *N.D. Jaiyal and Another v. Union of India*; (2004) 9 SCC 362.

of public trust which the State is held responsible to uphold.⁵

16. It is trite that decline in quality of environment demonstrates the failure of the authorities to perform their obligation under the constitutional scheme and mandate of the environmental laws.⁶
17. It is also trite that if the regulatory authorities either connives or acts negligently by not taking prompt action to prevent or avoid or control damage to the environment, natural recourses and the people health and property, the principle of accountability for restoration and compensation will have to be applied.⁷
18. Thus, it is incumbent upon the State to be diligent in taking prompt steps and measures for mitigation of the deteriorated environment for the well being of the people at large by according top priority. There can be no compromise on this as it would transcend all other considerations.

⁵ *M.C. Mehta v. Kamal Nath and Others*; (1997) 1 SCC 388, *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu and Others*; (1999) 6 SCC 464, *Intellectuals Forum, Tirupathi v. State of A.P. and Others*; (2006) 3 SCC 549 and *Fomento Resorts and Hotels Limited v. Mingeul Martins and Others*; (2009) 3 SCC 571 .

⁶ *M.C. Mehta v. Union of India and Others*; (1999) 6 SCC 12.

⁷ *M.C. Mehta v. Union of India and Others*; (2004) 12 SCC 118.

19. The study conducted by the NEERI on source apportionment of the pollution in the cities of Kolkata and Howrah, obviously is in consonance with the recommendations of the Committee forming part of the original judgement as will appear from recommendation no. (vi) thereof referred to in the original judgement. While we appreciate the efforts put in for collection of data and the narrative on the various aspects, the Action Plan ought to be executed urgently if any meaningful result is to be achieved. It is accordingly directed so.
20. In view of the above, we reiterate that the Action Plan placed by the State in the affidavit of the Chief Secretary, Government of West Bengal, shall be put into action and executed subject to the above directions and including the specific directions contained in paragraph 13 of this order.
21. With above observations and directions, this execution proceedings stand disposed off, except that the State shall file a compliance of report of the directions contained herein within six months from hence by e-mail at judicial-ngt@gov.in.

22. Copies of this order be transmitted to the CPB, NEERI and the WBPCB for compliance of direction (iv) above.

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

1st October, 2020
O.A. No. 33/2014/EZ
avt

Item No.03

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 422/2013(SZ)

L.G. Sahadevan

Applicant

Versus

Union of India and Ors.

Respondent(s)

Date of hearing: 10.01.2022

CORAM: **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

Applicant: Mr. Mr. A. Yogeshwaran, Advocate

Respondent(s): Mr. M.R. Gokul Krishnan, Advocate for R1.
 Mr. Abdul Saleem and Mr. S. Saravanan, Advocates for R2, R3 &
 R4.
 Mr. Shivathanu Mohan, Advocate for M/s. S. Ramasubramaniam
 Associates for R5 & R6.
 Dr. D. Shanmuganathan, Advocate for R7 to R9, R11 to R13.
 Mr. S. Sai Sathya Jith, Advocate for R10.
 Mr. P.K. Gupta, Advocate for CPCB.

ORDER

1. The issue raised in this application is remedial action for control of air pollution in Chennai city and its agglomeration area. According to the applicant, air quality in Chennai city is degraded due to increasing number of vehicles and population. Remedial action on the pattern of order of Hon'ble Supreme Court dated 28.07.1998 in *M.C. Mehta v. UoI*, (1998) 6 SCC 63, including for conversion of public vehicles to CNG, phasing out old diesel/petrol vehicles etc. should be taken.

2. This application was filed on 13.12.2013 and has been dealt with by several orders passed in past eight years. We may refer to some significant orders. The application was admitted on 19.12.2013. Response has been filed by the contesting respondents. On 25.01.2019, the Tribunal directed CPCB and State PCB to study the ambient air quality and identify the hotspots and sources of pollution and file an action plan for mitigation. Accordingly, the report was filed which inter alia suggested measures including change of the fuel to CNG, LPG. The matter was then considered on 25.05.2019. The Tribunal observed that the State of Tamil Nadu needs to consider the measures and prepare its action plan in the matter, considering orders of this Tribunal in *O.A. No. 21/2014, Vardhaman Kaushik v. Union of India*. Accordingly, an action plan was submitted by Joint Transport Commissioner (Road and Safety), Government of Tamil Nadu. Vide order dated 19.08.2019, the Tribunal directed the State of Tamil Nadu to revisit the proposed plan after elaborate study. Thereafter, on 11.09.2020 further action plan filed by the State of Tamil Nadu was considered and it was directed that timelines proposed for taking the measures like cleaner fuel, electric vehicles etc. need to be shortened.

3. On 11.11.2020, Tribunal directed the State Government and GAIL to come out with a concrete proposal on the subject. Finally, on 27.05.2021, noting the adverse health impact of pollution and applying the principle of sustainable development, the Tribunal directed the State Government to prepare an action plan with anticipated long-term impact on or before 07.07.2021.

4. The matter was last considered on 06.12.2021. The Tribunal noted that despite of directions of the Tribunal, action plan directed to be

prepared/re-visited had not been done. It was noted that the Tribunal had also directed Air Quality Monitoring Committees to prepare the plans to control air pollution in identified cities where air quality norms were exceeding. Order of the Hon'ble Supreme Court was also noted on the issue of phasing out old vehicles. Accordingly, the Principal Secretary, Transport was directed to prepare appropriate plan in the matter in accordance with other Departments. The operative part of the order is reproduced below:-

"4. We find no justification for such neglect of an important issue of air pollution in Chennai which required emergency measures in the interest of public health of the citizens. New Government has been in office for more than six months. Different steps on the subject taken by Central and many State Governments and orders of the Hon'ble Supreme Court are in public domain.

5. This Tribunal has dealt with the issue of air pollution in the context of adequacy of clean air programme of the Central Government for 124 cities¹ 'non-attainment cities', where air quality exceeds standards, based on the data compiled by the CPCB. The Tribunal directed constitution of Air Quality Monitoring Committees (AQMCs) in all the States, including the State of Tamil Nadu, to prepare action plans to remedy the situation. The AQMC for Tamilnadu can be consulted for action plan for Chennai city and its agglomeration area. For ready reference, final directions in the said order are reproduced below:

"60. xxx xxx.....xxx

- i. **We direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees (not below the rank of Joint Secretaries) of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and Chairman, CPCB with a view to monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. NTF may also monitor enforcement of laid down air quality standards beyond NACs in other identified air polluted areas where air quality is poor and above.***

¹Order dated 08.04.2021 in OA No. 681/2018, In re: News item published in "The Times of India" Authored by ShriVishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15

- ii. ***The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels.***
- iii. *Monitoring by NTF may be with reference to the action plans of 124 NACs. The components include installation of monitoring stations, completion of CC and SA studies, shifting, prohibiting and regulating activities beyond carrying capacity (such as shifting to cleaner fuel and declaring regulated/no vehicle zones so as to ensure that the air quality does not go beyond „poor“ for protection of health of the citizens), effectiveness of PGRPs, timelines for execution of the action plans and recovery of compensation for delay, addressing gap in control of noise pollution, afforestation drives utilizing CAMPA funds, effective implementation of ERS, revamping of PCBs/PCCs and other monitoring mechanism, remediation of legacy waste sites and effective steps for management of other waste, including biomedical, plastic and e-waste, dust control, public awareness and community involvement programmes and setting up of data grids on all levels. NTF may also evolve and oversee parameters for interse ranking of success of remedial action for 124 NACs and other air polluted areas where air quality is poor and above. Further, accountability for failures and incentives for success also needs to be monitored. NTF is free to take up any other incidental issues.*
- iv. *Consistent with Digital India initiatives, MoEF&CC/ CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) and District Environment Data Grids (DEDGs) and further linked to available portals like online air quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to National Air Quality Monitoring Programme (NAMP). Based on above data, the MoEF&CC may lay down guidelines for classifying cities/districts in terms of air quality in different categories such as „red“, „orange“ and „green“. On that basis, a National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs annually.*
- v. ***The Chief Secretaries of all States/UTs may continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water,***

instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers. The issue of noise pollution also needs to be addressed, as earlier directed.”

6. We may also refer to order of the Hon'ble Supreme Court dated 29.10.2018 in W.P.(C) No. 13029/1985, *M.C. Mehta v. Union of India & Ors.* which is as follows:

“Report No.92

Learned amicus curiae has placed before us some submissions on urgent actions to control air pollution in NCR.

We have gone through the suggestions that have been given and are of the opinion that the three suggestions are eminently reasonable and must be implemented with immediate effect.

These suggestions, which are now the directions of this Court, are as follows:

1. *The Transport Departments of NCR will immediately announce that all the diesel vehicles more than 10 years" old and petrol vehicles more than 15 years" old shall not ply in NCR in terms of the order of the National Green Tribunal dated 07.04.2015. The order of the National Green Tribunal was challenged in this Court and the Civil Appeal was dismissed. Vehicles violating the order will be impounded. The list of such vehicles should be published on the websites of the Central Pollution Control Board (CPCB) and the Transport Departments of NCR. Similarly, a meaningful advertisement should be published in a local newspaper for the convenience of the owners of the vehicles.*
2. *CPCB will immediately create a social media account on which the citizens may lodge their complaint directly to be acted upon by the Task Force responsible for implementation of Graded Response Action Plan.*
3. *EPCA is permitted to take pre-emptive steps under the Graded Response Action Plan without strict adherence to pollution stages delineated in the plan*

The last direction is being issued in view of the more or less critical situation in NCR, particularly in Delhi with regard to air pollution.

We have been shown a Note prepared by the Chairman of EPCA on 28th October, 2018.

The photographs attached to the Note indicate a fairly terrible state of affairs with regard to pollution in various parts of Delhi. It is for this reason, we are compelled to pass the above orders in the first instance

With regard to the Note submitted by the Chairman, EPCA on visits to hot spots of NCR to ascertain ground level enforcement of directions issued and actions taken, the Delhi Government as well as the Delhi State Industrial and Infrastructure Development Corporation Ltd. should file an affidavit within two days.”

7. Data of air quality and laid down air quality norms are well known. There is no dearth of expertise for handling the subject in the State administration. What is required is taking an informed responsible decision in the larger interest of public health and enforcing the laid down air quality standards.

8. Accordingly, we direct the Principal Secretary, Transport, Government of Tamil Nadu, in coordination with other concerned authorities, to positively prepare the necessary action plan at the earliest, if not already done and file the same before the Tribunal before the next date.”

5. In pursuance of above, affidavits have been filed on behalf of the Metropolitan Transport Corporation, Chennai and Transport Commissioner, Chennai. In the first affidavit dated 08.01.2022, steps taken by the State of Tamil Nadu to improve air quality in the State have been mentioned as follows:-

“4. The details of Action Plans taken by the State of Tamil Nadu in order to improve the air quality in the State, with respect to vehicular pollution is as follows:-

- *It is humbly submitted that at present with regard to the buses of State Transport Undertakings, the fitness certificate for all buses are updated for roadworthiness once in six months. In the G.O.Ms.No.70, Transport (A) Department, dated 08.07.2021, orders have been issued for revising the norms for (i) The Express Buses of State Express Transport Corporation (Tamil Nadu) Limited (SETC), Chennai be replaced at the end of the 7 years (or) completion of 12 lakh KMs run whichever is earlier (ii) The buses of all other Tamil Nadu State Transport Undertakings (TNSTUs) be replaced at the end of 9 years (or) on completion of 12 lakh KMs run whichever is earlier. Further, all Tamil Nadu State Transport Undertakings (TNSTUs) are requested to ensure that infra body repair works are carried out on completion of half of the years of its specified life period/ mid life reconditioning of buses.*
- *It is humbly submitted that in the Tamil Nadu State Transport Undertakings there are 8705 buses were condemned for the period from 2014 to 2020. Thereafter 8372 new buses of BS-III and BS-IV were introduced by replacing the over aged buses in the Tamil Nadu State Transport Undertakings for the period from 2014 to 2020.*

- *It is humbly submitted that in the face of increasing pollution and vehicular emissions, the Government of India implemented the transition from BS-IV to BS-VI norms, skipping the BS-V stage from April 2020. As per MoRTH guidelines only BS VI vehicles are being registered from 1.4.2020 in the State of Tamil Nadu, thus it would reduce the pollution by 50% for the new vehicles. Now, fuel is also available in BS-VI fuel. Most OEMS are currently investing in upgrading their portfolio to ensure compliance with BS VI norms, and Original Equipment Manufacturers (OEMs) have tied up with Global Firms to develop BS-VI technology.*
- *It is humbly submitted that to mitigate the air pollution due to 20,358 Tamil Nadu State Transport Undertakings buses, transitioning to BS-VI norms and electric vehicles is the only option, the Government has proposed to deploy 2213 BS-VI compliant diesel buses and also 500 electric buses under KfW funding assistance programme from the year 2021 and to add up to 12000 BS-VI compliant diesel engine buses and 2000 buses over a five years period in Tamil Nadu. Before the end of 2026, about 69% of the overage vehicles will be replaced.*
- *It is humbly submitted that BS-VI compliant petrol vehicles will be 25% cleaner than BS-IV due to the reduction in nitrogen oxide levels from 80 to 60mg/km. For diesel engines, BS-VI reduces 3 pollutants, viz. NOx, Particulate Matter and Hydrocarbons by 82%, 68%, and 43% respectively.*

5. *The said steps are being taken by the Government of Tamil Nadu to reduce the usage of old vehicles on the road.*

6. *Further, it is humbly submitted that the Transport Department has dealt with operation of TNSTUs buses only. The vehicle registration, enforcing authorities, Transport Commissioner and all Regional Transport Offices are comes under the control of Home (Transport) Department. We are one among the stake holders involving road transport our share is very meager (only 0.07% of total motor vehicle population), all the other stake holders are not in our control. They are only controlled by the enforcing authorities viz. Transport Commissioner and Home (Transport) Department.”*

6. In the second affidavit dated 07.01.2022, action plan to deal with the vehicular pollution has been filed which covers the issue of Green and Clean Fuel Policy and phasing out existing old government vehicles. The same is reproduced below:-

“1) Green and Clean Fuel Policy in the State of Tamil Nadu:

A. *It is submitted that the number of compressed bio-gas(CBg) plants entailing a total investment of about Rs.450 Crore are to be set up in Tamil Nadu for the supply of green fuel in the State. The first CBG plant has been established at Namakkal by IOT, a joint venture of Indian Oil Corporation with Oil tanking GmbH of Germany. The Namakkal plant will process 290 tonnes per day of feedstock to produce 15 tonnes per day of CBG, which shall be sold for use in vehicles from five petrol pumps in Namakkal and Salem besides two industrial units. CBG has properties similar to CNG and hence can be used in vehicles that run on CNG fuel without any modifications. Indian Oil Corporation and Hindustan Petroleum Corporation Ltd have already awarded 13 letters of Intent in Tamil Nadu for production and supply of 30 thousand metric tons per annum (TMTPA) of CBG. The estimated investment in these plants is likely to be about Rs.450 crore. The CBG potential in Tamil Nadu from existing waste and biomass sources is estimated to be about 2.4 MMTPA. The utilization of this entire potential shall result in the setting up of about 600 plants across the State, at an investment of about Rs.21,000 crore .The Government of Tamil Nadu had set up a separate Agency as registered society called the Tamil Nadu Energy Development Agency (TEDA) as early as 1985, as per G.O.Ms.No.163 p & D(EC) dept. dated:29.11.1984, with the following specific objectives.*

- i) To promote the use of new and renewable sources of energy (NRSE) and to implement projects therefore.*
- ii) To promote energy conservation activities*
- iii) To encourage research and development on renewable sources of energy.*

Of the renewable energy systems like Wind Power, Bagasse Cogeneration, Hydro, Solar Power, Biomass Power, the cumulative achievement upto 31.1.2020 of Biomass Power is of 265.59 MW which will improve the usage of this fuel energy in the state of Tamil Nadu. Moreover out of 86,321 MW renewable resources as on 31'1'2020 in India, Tamil Nadu bears 14,205 MW'

B. *The BS VI vehicles introduced from !.4.2020 has reduced the pollution level by 50o/o, than the BS IV vehicles. As per MoRTH guidelines only BS VI vehicles are being registered from 7.4.2020 in the state of Tamil Nadu. The guidelines of the MoRTH is strictly followed in our State, thus it would reduce the pollution by 50o/o for the new vehicles'*

C. *In the year 2027,38 Retrofitment Kits approved by the Transport commissioner which will be utilized in the 17 Retrofitment centres are approved. This will enhance the usage of alternate fuels like cNG and LPG in the vehicles.*

D. *E - Vehicle Registration: As per the direction issued in the MoRTH notification in s.o,No.5333 (E) dated: 18,10.2018 permit shall not apply to Battery operated vehicle, Methanol fuel vehicle and Ethanol fuel vehicle. This notification has been followed and Battery operated vehicles are being*

registered without permit in our State. Further, new proposal to Government of Tamil Nadu has been submitted by the Transport commissioner to grant permission to register all Battery operated Transport vehicles with the same permit conditions.

- E. Further, as per the MoRTH Notification in GSR No'525(E) dated:02.08.2021 Battery operated vehicle shall be exempted from the payment of fee for the purpose of issue or renewal of Registration Certificate and assignment of New Registration Mark. National Informatics Centre addressed to incorporate the same in the Vahan software.
- F. In the MoRTH notification cSR 653(E) dated: 23.09.2021 has introduced Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules 2021 and to be implemented in all States. Hence, it is submitted that the necessary orders are awaited from the Government of Tamil Nadu.

AS PER BS-IV POLLUTION NORMS.

(Petrol/Compressed Natural Gas/Liquefied Petroleum Gas driven Vehicles, manufactured as per Bharat Stage - IV norms)

Sr. No	Type of Vehicle	Idle Emission Limits		High idle emission limits	
(1)	(2)	(3)		(4)	
		CO%	HC (n hexane equivalent) ppm	CO%	Lambda (RPM-2s00 200)
1	Compressed Natural Gas/ Liquefied Petroleum Gas driven 4-Wheelers manufactured as per Bharat Stages-IV Norms	0.3%	200 ppm	-	-
2	Petrol driven 4-Wheelers manufactured as per Bharat Stages-Iv norms.	0.3%	200 ppm	0.2	1(+or-) 0.03 or as declared by the vehicle manufacturer.

(Diesel Vehicle)

Sr.No	Method of test	Maximum smoke density	
(1)	(2)	(3)	
		Light absorption coefficient (1/meter)	Hartidge units
1.	Free acceleration test for turbo charged engine and naturally aspirated engine for vehicles manufactured as per pre-Bharat Stages - IV norms.	2.45	65
2.	Free acceleration test turbo charged engine and naturally aspirated engine for vehicles manufactured as per Bharat Stage-IV norms.	1.62	50

		Reference Mass (RM) (Kg)	Mass of Carbon Monoxide (CO)		Mass of Total Hydrocarbons (THC)		Mass of Non-Methane Hydrocarbons (NMHC)		Mass of oxides of Nitrogen (NO _x)		Combined Mass of Hydrocarbons and oxides of nitrogen (THC + N)O _x		Mass of Particulate Matter (PM)		Number of Particles (PN)	
			L1(mg/km)		L2(mg/km)		L3(mg/km)		L4(mg/km)		L2+L3(mg/km)		L5(mg/km)		L6 (numbers/km)	
Catagory	Class		P1	C1	P1	C1	P1	C1	P1	C1	P1	C1	P1	C1		
M(MI & M2)		All	1000	500	100	-	68	-	60	80	-	170	4.5	4.5	6.0x10 ¹¹	6.0x10 ¹¹
N1	I	RM<1305	1000	500	100	-	68	-	170	80	-	170	4.5	4.5	6.0x10 ¹¹	6.0x10 ¹¹
	II	1305<RM<1760	18010	630	130	-	90	-	75	105	-	195	4.5	4.5	6.0x10 ¹¹	6.0x10 ¹¹
	III	1706<RM	2270	740	160	-	108	-	82	125	-	215	4.5	4.5	6.0x10 ¹¹	6.0x10 ¹¹
N2	All		2270	740	160	-	108	-	82	125	-	215	4.5	4.5	6.0x10 ¹¹	6.0x10 ¹¹

G. From the above table it is found that the emission level is far below from BS-IV engines. With the BS VI standards, the emission rate can come down by approximately 25% in the case of petrol engines, and 70% in the case of diesel engines. The cancer causing particulate matter emitted from the diesel engines have come down by 80% by the BS VI engine. Our State has taken the earnest efforts to reduce the pollution caused by the vehicles to improve the air quality. Further, the CNG in the country are available only in 13 states and the evolution of the BS VI has brought down the emission level from vehicles drastically. From the study of Director R&D, Indian Oil Corporation, it is stated that Emission control limits of key pollutants are the same for BS VI standard liquid fuels namely petrol & diesel and CNG. For Carbon monoxide, a key pollutant, it is 4g per KWh, exactly the same for diesel or CNG. Similarly, the limits on and Particulate Matter/Number are same for both fuels.

2) Action plan taken by Government Departments on the existing old Government vehicles. which are more than 15 years.

A. The G.O.(Ms) No.2275 Home(Tr.E) Dept, dated:10.10.90, the appendix of the said GO reads as follows;

*"RULES FOR DISPOSAL OF MOTOR VEHICLES
BELONGING TO THE DEPARTMENT OF GOVERNMENT
OF TAMILNADU*

- i. These rules are called as "The Tamil Nadu Departmental Motor vehicles Disposal Rules".*
- ii. These rules shall apply to the Motor Vehicles of all Departments of the Government of Tamil Nadu (including Police, Public Works and Highways and Rural Works Departments).*

Vehicles belonging to the local bodies, boards autonomous bodies, public sector undertakings, commercial departments, institutions etc., of State Government, Government of India Departments and other State Governments shall also be inspected under these rules and the Director, Motor Vehicles Maintenance Department shall issue condemnation certificate based on the norms governed by separate rules intended, for them provided a sum of Rs.100/- being inspection charges, is collected wherever necessary.

- iii. No departmental vehicle shall ordinarily be condemned before it has completed the following norms.*

S.No.	Type of vehicles	Use of Vehicles	
		In plains	In hilly areas
1	Petrol driven vehicles such as Jeeps, Cars & Vans etc.,	10 years or 2 lakhs km whichever occurs later	8 years or 1.6 lakh Kms whichever occurs later
2	Diesel Driven vehicles such as Jeeps, Vans, Lorry etc.	10 years or 2.5 lakh kms whichever occurs later	8 years or 2 lakh kms whichever occurs later
3	Motor cycles	6 ½ years or 80,000 kms, whichever occurs later	5 years or 65,000 kms whichever occurs later
4	Trailors	10 years	10 years

- B. The G.O clearly mandates that action should be initiated to condemn the vehicles before six months or one year, from the date on which the vehicle completes 8 years in hilly areas and 10 years in plains. Provided that all the vehicles in the Fire Service Department shall normally be condemned and replaced after they have been in use for a period of 10 years. The GO also stipulates that all the condemned vehicles should be disposed of by the Director, Motor Vehicle Maintenance Department following the procedure ordered by Government.*

- C. Thus the entire Government departments are following the procedures in the above Government order and hence the old vehicles are being condemned on completion of 10 years period. Further after the test of fitness only the vehicles are allowed to ply and there are only about 0.5% of vehicles in the state department which will also be condemned based on the fitness test. For all non Transport Vehicles, revalidation of vehicle is done once it completes 15 years and thereafter every 5 years.
- D. Tamil Nadu State is strictly following condemnation norms as per the above Government order and reducing the pollution caused by the vehicles of the Government Departments. Further it is understood that the Central Government is under active consideration in introducing Scrapping Policy throughout the country based on the orders of the Hon'ble National Green Tribunal, Principal Bench. If the scrapping policy is brought up proper in a scientific and systematic way, the same shall improve the standard of vehicular pollution. Once the guidelines are received from the Central Government, the Tamil Nadu Government will take all the necessary initiative to follow the policy.
- E. At present in our state, the fitness certificate for all the new Transport Vehicles and State Transport Undertaking buses are updated for roadworthiness once in six months. For non Transport Vehicles, revalidation of vehicle is done once it completes 15 years and thereafter every 5 years.
- The said steps are being taken by the Government of Tamil Nadu to reduce the usage of old vehicles on the road.
- F. It is humbly submitted in the State of Tamil Nadu, strictly compliance the directions of the Hon'ble Supreme Court of India and notified the conversion of all petrol driven auto rickshaws registered in the Chennai city, Kancheepuram and Thiruvallur districts into Liquefied Petroleum Gas (LPG), thereby reducing vehicular pollution. It is humbly submitted that, at present as per the above instructions, all the Pollution Testing Centres (425) in this State are linked with vahan database, thereby improving qualitative reduction in pollution and to have an overall control of the Pollution testing Centres. It is humbly submitted, as per the steps taken by the State Government the enforcement officials of Transport department have checked the vehicles, and issued the check reports to those vehicles without valid Pollution under Control certificate (PUC) If the vehicle found without valid PUC, penalty of Rs 10,000 will be levied.

The details of Check report issued for the violation:

2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-2021
36,003	36,928	44,748	46,697	44,847	39,845	47,876	32,732	11,789

The number of vehicles checked and issued PUC as follows.

2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-2021
4,30,220	4,87,099	5,09,511	5,75,301	6,20,264	6,70,257	7,62,038	8,26,900	10,05,283

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to accept the present affidavit and pass such further or other orders as deemed fit and proper in the facts and circumstances of this case and thus render justice.”

7. CPCB has filed copy of the order dated 07.01.2022 under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 directing inter alia implementation of revised action plan dated 22.3.2021 for the city of Chennai as approved by the CPCB, utilizing the funds sanctioned by the Finance Commission for mitigation of the air pollution.

8. We have heard learned Counsel for the parties and considered the issue. While the CPCB as well as the State Authorities need to take further action in pursuance of above action plans to enforce the air pollution control norms in Chennai and other parts of the State of Tamil Nadu, there is further need for source apportionment studies and updating of action plan and the corresponding measures based thereon and also the perspective plan for Chennai city. On the subject of vehicular pollution control, further decisions may also be required as per the directions of the Hon'ble Supreme Court, applicable for Delhi and National Capital Region, to the extent found relevant and violation for Tamilnadu. The State needs to evolve and update its policy. The other associated activities to remedy air quality degradation may include policy

with regard to usage of cleaner fuel, regulatory measures in the light of source apportionment and carrying capacity and controlling of dust. There is also need for effective monitoring at the District level and the State level by the Steering Committee as well as Air Quality Monitoring Committee (AQMC) on regular basis, subject to overall progress being monitored at the National level under the National Clean Air Programme (NCAP).

The Application is disposed of.

A copy of the order be forwarded to the Chief Secretary, Tamil Nadu and CPCB by email for compliance.

If any grievance survives, the affected parties will be free to take their remedies in accordance with law.

Sd/-
Adarsh Kumar Goel, CP

Sd/-
K. Ramakrishnan, JM

Sd/-
Sudhir Agarwal, JM

Sd/-
Brijesh Sethi, JM

Sd/-
Dr. Satyagopal Korlapati, EM

January 10, 2022
Original Application No. 422/2013(SZ)
AB

Item No. 02

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 171/2016/EZ
with M.A. No.57/2018/EZ

Subhas Dutta

Applicant

Versus

State of West Bengal

Respondent

Date of hearing: 02.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant:	Applicant in person
Respondent(s):	Mr. Sibojyoti Chakraborty, Advocate for R-1 & 2 Mr. Dipanjan Ghosh, Advocate for R-3 Mr. Partha Sarthi Mullick, Advocate for R-4 Mr. Ashok Kumar Banerjee, Sr. Advocate a/w Ms. Paushali Banerjee, Advocate and Mr. Sibojyoti Chakraborty, Advocate for R-6, Mr. Surendra Kumar, Advocate for CPCB

ORDER

The Issue

1. Grievance in this application is against air pollution in Kolkata metropolitan area on account of various activities, including burning of firewood and tyres for road repair, plying of heavily loaded vehicles, construction activities, dumping of soil dug for making tunnels by the Metro Railway Authority, burning of fossil fuel, leaves and solid waste, transportation of garbage, plying of old vehicles, absence of synchronization of traffic signals, illegal commercial exploitation of

roads and footpaths, absence of solar power for lighting the sign boards/bill boards, etc. Thus, the applicant has referred to the well-known sources of pollution on account of road repairing, vehicles, construction activities, combustion, road dust, garbage dump sites.

Procedural History

2. The application was filed on 21.11.2016 and was first considered on 29.11.2016. The Tribunal issued notice to the respondents, including the State of West Bengal, State PCB and MoEF&CC who have filed their respective replies. The matter has been considered by several orders but reference may be made to a few. Vide order dated 01.10.2018, the Tribunal directed closure of all hot mix plants operating on old technology which were considered to be one of the sources of pollution. Vide order dated 18.12.2018, PWD, Municipal Corporation and State of West Bengal were required to furnish performance guarantee in the sum of Rs. 02 Crores each to ensure adopting new technology for the hot mix plants. Later, an action taken report was filed to the effect that new technology was adopted. Vide order dated 20.12.2021, the Tribunal noted switching over to new technology of Micro Surfacing in addition to White-Topping as follows:-

“4. Mr. Sibojyoti Chakraborty, learned Counsel for the State Respondents, submits that the length of 18.93 Kilometers in the District of Howrah has been completed by using ‘Micro Surfacing’ Technology. Learned Counsel further submits that another work of widening and strengthening of the Diamond Harbour road in the city of Kolkata was taken up through ‘Micro Surfacing’ Technology and that road has also been completed. It is also stated that, in addition to ‘White-Topping’ and ‘Micro Surfacing’ Technology, the State Respondents are also going to execute another environment friendly road construction alternative in the roads of Kolkata city which is the ‘Mechanised Mastic Asphalt’ Technology in which the asphaltic mix is yielded through a batch mix plant located much away from the city and fitted with built-in modern pollution control devices and the mastic asphalt mix is transported through covered thermo-containers. It is also stated that the notice inviting tender has been issued with a mandatory condition that the contractor has to obtain due permission from the West Bengal Pollution Control Board regarding operation of

‘Batch Mix Plant’. The proposed site for installation and commissioning of the said Mechanised Mastic Asphalt Plant is at Techno City (Hatisala), P.O.- Akandakeshari, Kolkata – 700135.”

3. Considering the above, the performance guarantees were released.
4. We may now refer to some of the affidavits filed by the statutory authorities. As per affidavit filed by the State PCB on 22.12.2021, inspection was carried out in respect of the hot mix plants and the operation of hot mix plants was found to be within norms. However, it was suggested that proper dust collection and disposal system with batch mixing plant to avoid fugitive emission from bag house hopper should be provided.
5. CPCB in its affidavit filed on 30.03.2022 has referred to a study undertaken by the National Productivity Council (NPC) on the subject in March 2016. Expert Committee at MoEF&CC considered the proposal in its meeting held on 09.08.2019 and agreed for draft notification. Draft Notification of Environmental Standards for Hot Mix Plants was published vide G.S.R 16 (E) dated 8th January, 2020 in the Gazette of India. Proposal for finalization of environmental standards for hot mix plants was considered in Expert Committee of MoEF&CC in its meeting held on 20.05.2020 and suggested CPCB to have a comprehensive analysis on the following points and submit revised/modified draft notification to MoEF&CC for consideration:
 - i. Minimum stack height especially for mobile/portable Hot Mix Plants needs to be proposed
 - ii. Examine the impact of usage of furnace oil and rubber process oil
 - iii. Fugitive dust emission aspects need to be further examined

- iv. Noise emission aspects
- v. Regulation on minimum size of Hot Mix Plants based on environmental consideration may be proposed
- vi. Harmonization of proposed regulation with the Consent to Operate conditions imposed by various SPCBs to the existing operating Hot Mix Plants may be carried out for having consistency across States.

6. It is further stated that the revised proposed standards for finalization were considered by reconstituted Expert Committee of MoEF&CC in its meeting held on 20.03.2021 and suggested CPCB to revise the proposal considering the following points:

- i. A study taking reference from NCAP should be carried out by CPCB to determine the capacity and size of hot mix plants to be permitted on site in city areas
- ii. The ozone concentration near the plants should be analyzed, standards for small plants have been proposed that release the fumes which are carcinogenic, therefore the study should also cover this aspect considering the size of plants to be permitted in field for operation vis-a-vis mobile and static plants
- iii. Standards for VOCs and Ozone should be prescribed
- iv. The study should also include techno-economic feasibility of suggested technologies for controlling emission
- v. Possibility of prescribing use of green fuels should be analysed
- vi. The scrubbing of fumes generates large amount of sludge the treatment of sludge is also challenge for smaller units. The study should include recommendations of remedial measures

along with testing of water from scrubbers and contaminated soil near such plants.

7. MoEF&CC vide its letter dated 14.07.2021 suggested to the CPCB to take up the matter with the newly constituted Peer and Core Committee on 11.06.2021 for deliberation and finalization.

8. I.A No. 21/2022/EZ has been filed with seeking permission to use old technology for hot mix plants for the repair of Rabindra Setu (Howrah Bridge). The Tribunal constituted a Committee to seek its opinion. The Committee has not yet completed its deliberations. However, this Tribunal cannot specify which technology is to be preferred which is for the administrative and statutory authorities to decide. Only concern of the Tribunal is that laid down air quality standards should not be violated. The I.A No. 21/2022/EZ will stand disposed of accordingly.

Consideration of the matter and finding

9. The question to be considered is measures to control air pollution particularly in the context of hot mix plants which have clear and acknowledged potential for air pollution. Since MoEF&CC and CPCB have conducted study and proposed standards, such standards need to be finalised expeditiously, preferably within three months. Pending such finalisation, the same may be followed by all concerned, except where a conscious decision is taken for any valid reason by the statutory regulators.

10. The statutory regulators and the State authorities need to take measures identified in action plans for 124 identified non-attainment cities, under the directions of this Tribunal in *O.A No. 681/8218, News Item Published In "The Times of India" Authored by Shri. Vishwa Mohan Titled "NCAP with Multiple Timelines to Clear Air in 102 Cities to be released*

around August 15” in the context of adequacy of National Clean Air Program (NCAP) of the Government of India. State of West Bengal also has NACs, including Howrah for which action plans to achieve air quality norms have been prepared with reference to different action points, including the dust control, vehicular pollution, traffic management, monitoring mechanism, emergency response systems, clearing of legacy waste sites, carrying capacity studies, afforestation, awareness programs, etc. The action plan should provide for stopping of activities resulting in violation of air quality norms and regulating such activities which cannot be stopped, so as to minimize the air pollution. The Tribunal referred to the Comprehensive Action Plan (CAP) and Graded Response Action Plan (GRAP) applicable to NCR, envisaging stopping of certain activities when the AQ levels increased beyond specified thresholds. Hot mix plants are one of the issues forming part of such regulation.

11. Relevant extract from order 08.10.2018 in OA 681/2018 is as follows:

- “ i. *All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.*
- ii. *The Action Plans may be prepared by six-member committee comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The Committee may be called Air Quality Monitoring Committee (AQMC). **The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination.***
- iii. *The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. **The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular***

pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc. The action plan shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

- iv. **The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.**
- v. **The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.**
- vi. The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.
- vii. The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate Action Plans, as directed.
- viii. The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/ SMS.
- ix. The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general

public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.”

12. The said matter has been finally dealt with by this Tribunal vide order dated 08.04.2021. The Tribunal concluded as follows:-

“VIII. Consideration of way forward and Directions:

56. As shown from the resume of orders dated 8.10.2018, 15.03.2019, 06.08.2019, 20.11.2019 and 21.8.2020 in the present matter and other orders in related matters and above discussion, specific action points stand identified. There are action plans prepared by six member Air Quality Monitoring Committees (AQMCs) in States/UTs, overseen by the Chief Secretaries and approved by Expert Committee comprising Member Secretary CPCB, Prof Mukesh Khare, IIT Delhi and Prof. Mukesh Sharma, IIT Kanpur. The subject was also discussed with the Chief Secretaries of all the States/UTs during their appearance before the Tribunal in pursuance of order dated 16.1.2019. On further review, 15 specific directions were issued on 6.8.2019 including setting up of online Continuous Ambient Air Quality Monitoring Stations (CAAQMS), undertaking Source Apportionment (SA) and Carrying Capacity (CC) studies, reviewing of master plans consistent with such studies, closing/ shifting industrial units from residential/non-conforming areas consistent with the directions of the Hon’ble Supreme Court, developing public grievance redressal portals and incorporating compensation regime against the violators. The Tribunal also took cognizance of the noise pollution which is also covered under the Air (Prevention and Control of Pollution) Act, 1981 and 2000 Rules under the EP Act. Further issues considered include revamping of CPCB and State PCBs for effective monitoring. Progress was reviewed on 20.11.2019 and further 16 specific directions were issued, including compensation for defaults. Further issue of regulating parking in the light of capacity of the road infrastructure was dealt with vide order dated 26.2.2020, as already mentioned earlier. Finally, on 21.8.2020 comprehensive review was undertaken and 18 specific directions were issued. The compliance status does not show significant achievements and there continue to be huge gaps in what is required to be done and what has been done.

57. That 124 major cities in the country are continuously noncompliant with the prescribed standards of air quality for more than five years is a matter of serious national concern which needs to be addressed urgently at all levels by involvement of highest authorities. Challenge is equally serious for areas where pollution levels are as high as above poor even though outside 125 NACs. Challenge of control of noise pollution also confronts the citizens. Thus, the concerned authorities

have to perform their responsibility, including public awareness and involvement.

58. In the light of above detailed discussion, holistic and coordinated efforts at all levels in the government is dire need of the hour. Accountability in terms of adverse entries in the ACRs and recovery of compensation for non-compliance are imperative for fixing accountability. This requires authorities at higher level to function as trustees for discharge of constitutional and statutory obligation to the citizens. There is no other magic wand to protect people against acknowledged sorry state of affairs. As shown from the observations of Hon'ble Supreme Court quoted in para 53 above, India has world's highest death rate from chronic respiratory diseases. About 1.5 million people in India die annually due to air pollution. The Hon'ble Supreme Court also observed that 40% school children suffer from lung damage. Air pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases. Severe air pollution is leading to diseases and irreversible damage to health. There are other health related issues like allergies, temporary deafness. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc. This is resulting in deprivation of constitutionally embedded rights. Grim situation is affecting right to education, work, health and ultimately, the right to life of the citizens. There are further reports¹ that air pollution is resulting in fatalities and economic losses. Remedial action is thus utmost for protecting health of the citizens.

Need for a High-level National Task Force for Monitoring

59. The matter has been monitored by the Tribunal for about two and a half years. Primarily the Tribunal is an adjudicatory body and beyond giving directions necessary for protection of environment under section 15 of the NGT Act, execution has to be by administrative authorities. Under public trust doctrine, the State authorities are under obligation to take effective measures to control pollution. Tribunal monitoring cannot be for indefinite period. Road map has crystalised to an extent. The Tribunal has formulated direction and conducted review five times with the assistance of data available with it. The ownership of monitoring must be now taken over by the statutory and

¹ (i) Air pollution killed 1.7 million Indians in 2019: Lancet report: (<https://www.downtoearth.org.in/news/air/amp/air-pollution-killed-1-7-million-indians-in2019-lancet-report-74737#aoh=16178975512221&referrer=https%3A%2F%2Fwww.google.com&%amp;tf=From%20%251%24s>)

ii) AIR POLLUTION RELATED DISEASE, DEATHS CoST INDIA RS 260,000 CRORES IN ECONOMIC LOSS: REPORT (<https://www.firstpost.com/tech/science/air-pollution-relateddisease-deaths-cost-india-rs-260000-crores-in-economic-loss-report-9159281.html>)

(iii) 1.7 million deaths in India were attributable to air pollution in 2019, says study: (<https://www.thehindu.com/news/national/17-million-deaths-in-india-were-attributable-toair-pollution-in-2019-says-study/article33394600.ece>)

(iv) Air pollution in India caused medical.net/news/20201223/Air-pollution-in-India-caused-167-million-deaths-in-2019.aspx) (<https://www.news-medical.net/news/20201223/Air-pollution-in-India-caused-167-million-deaths-in-2019.aspx>)

(v) Air pollution caused 54,000 deaths, \$8.1 billion loss in Delhi in 2020 <https://www.businesstoday.in/current/economy-politics/air-pollution-claimed-54000-livesin-delhi-last-year-one-death-per-500-people-claims-greenpeace-study/story/431766.html>)

administrative authorities for enforcement of rule of law for which a national level task force needs to be constituted. Thus, we find it necessary to give effect to the principle of Sustainable Development, in the interest of protection of environment and public health, to direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and CPCB with a view to monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels. Needless to say that the Chief Secretaries must continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs so as to effectively provide positive feedback to the NTF. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers.

Directions

60. Our directions are summed up as follows:

- i. *We direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees (not below the rank of Joint Secretaries) of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and Chairman, CPCB with a view to monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. NTF may also monitor enforcement of laid down air quality standards beyond NACs in other identified air polluted areas where air quality is poor and above.*
- ii. *The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels.*
- iii. *Monitoring by NTF may be with reference to the action plans of 124 NACs. The components include installation of*

monitoring stations, completion of CC and SA studies, shifting, prohibiting and regulating activities beyond carrying capacity (such as shifting to cleaner fuel and declaring regulated/no vehicle zones so as to ensure that the air quality does not go beyond 'poor' for protection of health of the citizens), effectiveness of PGRPs, timelines for execution of the action plans and recovery of compensation for delay, addressing gap in control of noise pollution, afforestation drives utilizing CAMPA funds, effective implementation of ERS, revamping of PCBs/PCCs and other monitoring mechanism, remediation of legacy waste sites and effective steps for management of other waste, including biomedical, plastic and e-waste, dust control, public awareness and community involvement programmes and setting up of data grids on all levels. NTF may also evolve and oversee parameters for interse ranking of success of remedial action for 124 NACs and other air polluted areas where air quality is poor and above. Further, accountability for failures and incentives for success also needs to be monitored. NTF is free to take up any other incidental issues.

- iv. Consistent with Digital India initiatives, MoEF&CC/ CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) and District Environment Data Grids (DEDGs) and further linked to available portals like online air quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to National Air Quality Monitoring Programme (NAMP). Based on above data, the MoEF&CC may lay down guidelines for classifying cities/districts in terms of air quality in different categories such as 'red', 'orange' and 'green'. On that basis, a National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs annually.
- v. The Chief Secretaries of all States/UTs may continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers. The issue of noise pollution also needs to be addressed, as earlier directed.”

13. Kolkata - Howrah twin Cities (in KMDA) are included in the non-attainment cities (NACs). They are required to execute Clean Air Action Plan, 2020 under NCAP which includes identification sources contributing

to air pollution. The relevant information particularly relating to Hot Mix Plants with reference to short and medium term actions are given:

“1.5 Hot-mix plants for road construction and cement batching

Kolkata Municipal Corporation, as well as the Kolkata Metropolitan Development Area have been witnessing a boom. Greenfield projects, in terms of commercial, residential and mixed land-use area development, as well as expansion of existing areas has led to the intensive increase in emissions emerging from concrete batching as well as from asphalt mixing plants, known as hot-mix plants.

The Eastern Zone bench of the NGT took notice of the emissions emerging from these hot-mix plants, and in a series of orders dated 18 September 2018 and 01 October 2018, banned the operation of all Hot Mix plants within Kolkata and Howrah. The order also asks the state government, KMC, and the WB PWD to ‘adopt more environment friendly and cleaner methods for the purpose’. The KMC also moved the NGT on 01 October 2018 to get a 4-month window to continue to operate the KMC run hot-mix plants within Kolkata. The deadline of 31 January 2019 has been set for these plants by the KMC to finish the ongoing repair of roads across Kolkata and Howrah. However, it must be noted that the longer term plan of the KMC for its hot-mix plants is to relocate these to areas such as Dum Dum and Rajarhat that are outside the jurisdiction of KMC. While this may suffice for the purpose of the NGT order, the emissions from these re-located plants, along with others within the KMDA will continue to affect air quality in the Kolkata-Howrah airshed. The KMC has begun implementation of this order, through the constitution of a panel of experts from WBPCB, IIT-Kharagpur, KMDA, Hooghly River Bridge Commissioners (HRBC) and KMC, with a mandate to monitor emissions from existing hot-mix plants, and suggest technical, technological and other measures to reduce the emissions from this sector.

xxx xxx.....xxx

3. BRICK KILNS, HOT-MIX PLANTS AND STONE CRUSHERS

Sr. no.	Action points	Agency responsible	Timeline
Short-term priority action			
3.1	There are about six brick kilns in close vicinity of the city. Enforce restrictions on operations of brick kilns within urban airshed zones during high pollution periods; allow only those brick kilns that comply with rectangular zig-zag design with induced draft or	Dept. of land and Land Reform WBPCB, KMDA, HMC, Department of MSME	6 months

	<i>those with improved technology. Initiate phasing out of traditional brick kilns.</i>		
3.2	Relocate and discourage any hot-mix plants within Howrah boundaries. Shut down small and mobile hot-mix plants.	HMC, WB PWD, NHAI and other road operating agencies	Immediately
Medium-term action			
3.3	<i>Identify and convert all brick kilns to rectangular design zigzag technology. If any FCBT natural draft kilns are found they need to be converted to induced draft kilns with rectangular zigzag design.</i>	<i>Department of Land and Land Reform, WBPCB, CPCB, ICE and MSME</i>	<i>1 year</i>
3.4	<i>Prescribe design specifications for improved kilns and ensure compliance checking of conversion. Ensure provision of infrastructure in terms of viewing platform and chimney emission testing point for compliance.</i>	<i>CPCB, WBPCB, Department of ICE, MSME</i>	<i>1 year</i>
3.5	Establish a protocol for using cleaner fuels & technology for asphalt mixing and minimizing the number of hot-mix plants	MoRTH, HMC, WB PWD, NHAI and other road operating agencies	2 years

”

14. The Tribunal has also dealt with issue of measures for control of air pollution including, clearing of legacy dump site, regulating old vehicles and strengthening the monitoring mechanism vide order dated 01.10.2020 in O.A No. 33/2014/EZ, *Subhas Datta v. State of West Bengal & Ors.*

15. Further, AQMC constituted in pursuance of orders in OA681/2018 must have prepared action plan for the NACs of West Bengal. The same may need to be updated so as to include the area which is subject matter of this Application.

16. In the light of above discussion, we direct constitution of a joint Committee comprising Secretary Environment, Secretary Transport, Secretary Urban Development, Secretary Local Bodies, (all West Bengal Govt), CPCB and State PCB to prepare/update action plan for Kolkata

metropolitan Area for control of air pollution. Secretary Environment will be nodal agency for compliance. The joint Committee may meet within one month and finalise/update its plan within three months. It may consider outline of suggested plans in the order dated 8.10.2018, quoted in para 11 and 12 above and other plans finalised by AQMC in respect of NACs in the State of West Bengal, in pursuance of the said order. It will be open to any stake holder to put forward suggestions for consideration of the Committee. The Committee will also be free to interact with any other expert/institution/department on the subject.

The Application is disposed of.

M.A. No. 57/2018/EZ will also stand disposed of.

A copy of this order be forwarded to the Chief Secretary, West Bengal, Secretaries Environment, Transport, Urban Development, and Local Bodies of West Bengal, CPCB and State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Saibal Dasgupta, EM

Prof. A. Senthil Vel, EM

May 02, 2022
Original Application No. 171/2016/EZ
M.A.No.57/2018/EZ
AB

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

		residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

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

Original Application No. 21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015 & M.A. NO. 284 OF 2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Vardhaman Kaushik and Mr. Salik Shafique, Adv.
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate for MoEF
	Respondent No. 2 & 4:	Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO, DPCC
	Respondent No. 3 :	Mr. Rajiv Bansal with Mr. Kush Sharma, Adv. for DDA.
	Respondent No. 5,6 & 7:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 8 :	Mr. Arun Baroka, Secretary, PWD, GNCTD
	Respondent No. 9 :	Mr. Mukesh Kumar, Adv.
	Intervener	Mr. Mukesh Kumar, Adv. and Mr. Yogesh Khanna for Sansha Kumar for NHAI For State of Tamil Nadu Ms. Ruchia Batra, Adv. for Traders Association, Lajpat Nagar. Mr. I.K. Kapila, Mr S.K. Pabhi, Mr. A.K. Singh and Ms. Shrucha Rai, Adv. for Karol Bagh Traders Fed. Mr. Anil Gover, AAG with Mr. Rahul Khurana and Vijender Singh, SI, Traffic & Highway Police, Karnal for State of Haryana Ms. Savitri Pandey, Ms. Azma Parveen, Adv. for state of U.P. Mrs. Avnish Ahlawat, Adv. for DTC, DUSIB, GNCT (Transport Deptt.) and SHO Karol Bagh Ms. I. Begum standing counsel for GNCTD and Sec. PWD. Mr. Narender Pal Singh, Adv. for Urban Dev. Ministry for GNCT Ms. Sakshi Popli for NDMC Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjiv Ahlawadi and Ms. Priya Deep, Adv. Mr. Amit Verma, Adv. appointed as Local Commissioner Mr. Arun Barrka, Sec. PWD, Mr. Jayesh Kumar, CE, Mr. G.P. Bansal, SE, PWD and Mr. C.S. Azad, EE, PWD. Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic) Charanjeet Singh, Adv. Local Commissioner Mr. Abishek Dhanania – ACP, Karol Bagh Mr. Mahesh Kumar, SHO, Karol Bagh

Original Application No. 95 of 2014

Present:	Applicant:	Mr. Sanjay Kulshretha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha and Manish Shrivastava, Adv.
	Respondent No. 1:	Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 8 :	Mr. Deepak Khadaria, Adv. for B. H., Ajmal Khan Market Association
		Ms. Savitri Pandey and Ms. Azma Parveen, Adv. state of U.P.
		Mr. N. Yogesh Kanna and Mr. Santha Kumar, Adv. for state of Tamil Nadu.

	Date and Remarks	Orders of the Tribunal
	Item No. 01 & 02 April 07, 2015 ss	The Learned Counsel appearing for the Applicants in both the Applications and other Applicants having similar interest have vehemently contended that all the Authorities and the States in NCR, Delhi have utterly failed to comply with the directions issued by the Tribunal in its orders and particularly the orders dated 26th November, 2014, 28th November, 2014 and 04th December, 2014 respectively. The contention is that much less the compliance to the directions issued by NGT the Authorities, Departments and the State Governments have not even initiated the process for compliance of these directions. With the increasing pollutants in the air, life of residents in the NCR, Delhi is becoming more and more vulnerable to various diseases and the greatest sufferer of these pollutants are young children of today and India's tomorrow. The slackness and casual attitude of the Authorities of the state Government is exhibited from the very fact that the air pollution is increasing and has reached to an alarming level which would make it difficult for the people of Delhi even to breathe freely much less fresh air. We find substance in the submissions made before us. In the recent past the media particularly the print media

	has highlighted the adverse impact of deteriorating Ambient Air Quality in the NCR, Delhi and particularly Delhi city perse. The articles widely published are based on scientific studies and are well supported by data. The articles reveals that 7 years ago everyone saw Delhi air taking a dead U-Turn, but no action was taken. Statistics referred are that in the year 2000, the particulate matter in the Air of Delhi was 191 µg/m³ which reduced to 161µg/m³ in 2007 right from the year 2003 to 2007 because of the orders of the Hon'ble Supreme Court of India introducing CNG transport system in Delhi. However, in the year 2014, particulate matter has again shot-up to 360 µg/m³. It is reported further that as many as 80,000 trucks enter Delhi every night and sleeping population is compelled to inhale high particulate matters resulting in serious health hazards as diesel fuel can damage the lungs, brain and even cause cancer. It has been pointed out that diesel is the prime source for bringing serious air pollution in Delhi particularly and children are even finding it difficult to breathe. The situation is so alarming that medically it is being advised that for recovery, people should leave Delhi. The question that arises at present, and what the resident of Delhi are most concerned is, what the principle of inter generational equity requires of the present/by Governing and the ones who are being Governed. There are three serious pollutants of air which we have already noticed in our previous orders. Firstly, burning of plastic and other wastes including Agriculture or Horticulture waste in open. Secondly, pollution resulting from construction and other allied activities emitting heavy dust contained in the air. Thirdly, Pollution resulting from

	vehicular traffic and industrial emission. We had passed diverse directions for preventing and controlling pollution and for improvement of the air quality in Delhi with regard to all the three major sources of air pollution. Unfortunately, the implementation remains question of concern. The pollutant causing deteriorating air quality is not a normal situation, it can hardly be tackled unless stringent measures are taken and directions are implemented expeditiously and with all the sincerity by the Agencies, Authorities, Departments and Government. We had directed NCT, Delhi and other Governments to submit their views on matters like controlling of vehicular pollution, total number of vehicles, age of vehicles. The above mentioned authorities were also required to submit their views on congestion, control and prevention of construction pollution, checking of vehicles for pollution at the state entry point, overloading of trucks and construction of parking areas in all congested places of Delhi to avoid congestion and to ensure free flow of traffic. Unfortunately, we find no response in that regard. We hereby issue directions to all the State Governments, Public Authorities, Corporations and Govt. of NCT, Delhi to produce all original records before the Tribunal to show what action have been taken by all or any of them for compliance of the directions issued by the Tribunal so far. Let this record be produced on 10th April, 2015. Reverting back to one of the major sources of air pollution that is dust emission from construction activities. This pollution mainly occurs due to mishandling of debris and building waste material, carriage and storage of

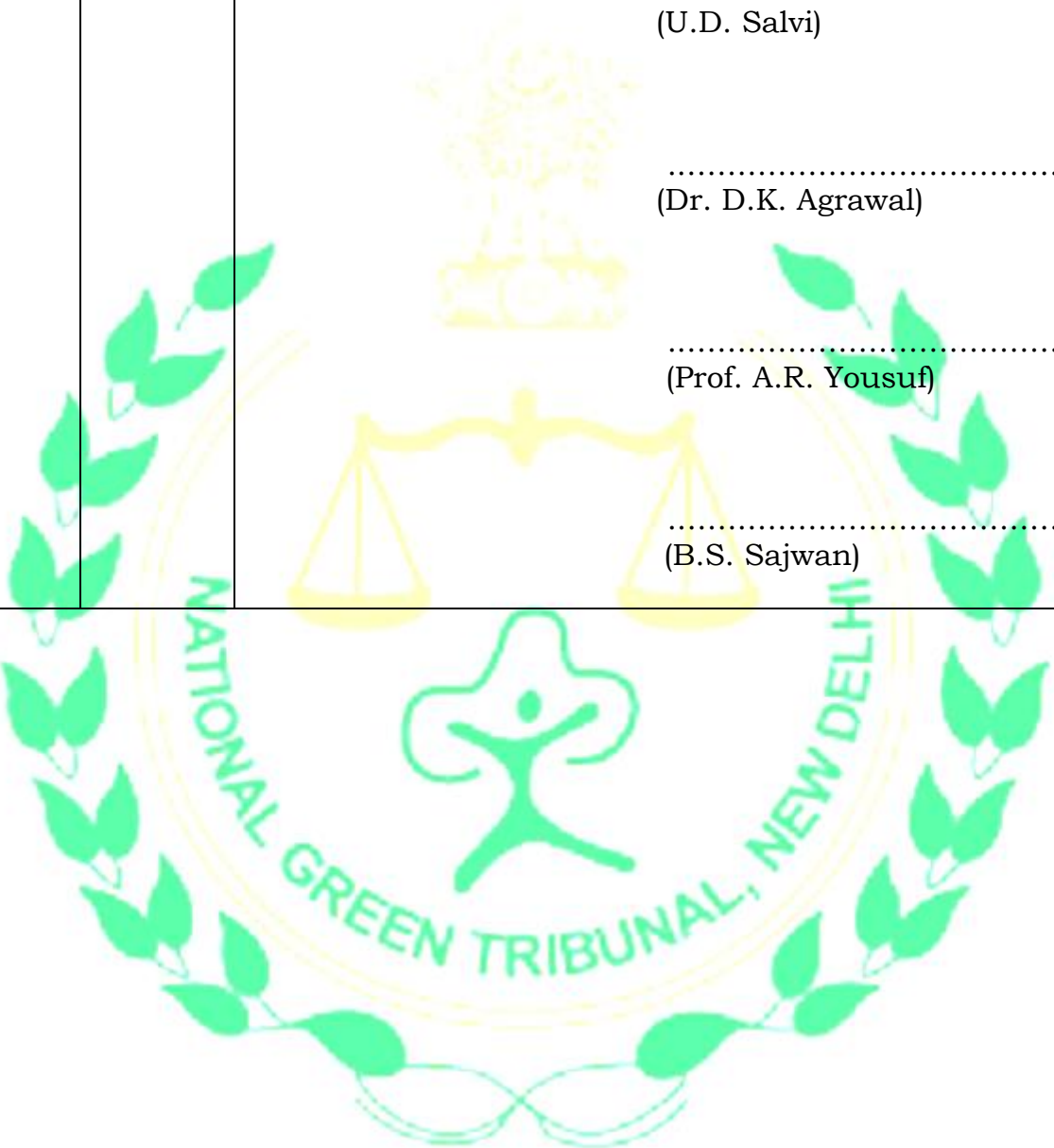
		construction material and as no steps are taken for environment protection by the builders during the course of the construction. On 06th April, 2015 various newspapers have reported about the huge dust emission resulting from the above mentioned activities in various parts of NCT, Delhi. The reports show huge construction activity emitting very high dust components and emitting the same in the air. The concrete dust in the air can be lethal when it combines with particulate matter arising from vehicular emission. In this report the construction activities has been referred to that of 2 km stretch from NH-24 to Charmurti Chowk in NOIDA Extension and Golf course road, Gurgaon. To the naked eye, uncontrolled and high dust emission are visible in the photographs and it is also clear that no protective measures have been taken in and around the buildings under construction. Vide our order dated 26th November, 2014 and 04th December, 2014, we have passed clear direction as to the steps which the person responsible for construction, carrying construction material and dealing with debris should take. Hence, it is clear that this reported construction as mentioned above is in blatant violation of those directions. Besides this, all the construction activities have to be carried on in following the Ministry of Environment guidelines/manual for Township and Area Development Project, 2010. It is reported that in NOIDA Extension, no protective measures have been taken and there was absolutely no check on the emission of dust resulting from construction and allied activities. Similar is the state even in Gurgaon where construction activities are being carried on without any preventive steps as detailed by the order of the Tribunal and MoEF guideline of 2010.

		Furthermore, the transportation of construction debris is always in a manner which is totally prejudicial to the environment. In these circumstances we hereby direct state of U.P., NOIDA and Greater NOIDA Authority, HUDA, State of Haryana and NCT, Delhi to immediately direct stoppage of construction activities of all the buildings shown in the report as well as at other sites wherever, construction is being carried on in violation to the direction of NGT as well as the MoEF guideline of 2010. This action shall be taken and complied with by all the state Government, Authorities and Police of each district particularly falling in the NCR, Delhi. The compliance report shall be submitted by the next date that is 10th April, 2015 to the Tribunal. Wherever the construction activities are not stopped by service of this order by the authorities upon the builders, the authority shall seal such building and report the matter to the Tribunal. With regard to the compliance of the conditions for check booth at all the entry points for checking of emission standards of the heavy vehicles, weigh bridges, overloading of trucks and life of the vehicles, we appoint the following Learned Advocates as Local Commissioners :- 1. Mr. Amit Verma, Adv. 2. Mr. Aditya N. Prasad, Adv. 3. Mr. Neha Miriam Kurian, Adv. 4. Mr. Atif Suhrawaroy, Adv. 5. Mr. Sahil Sangar, Adv. 6. Ms. Pallavi Talware, Adv. The Local Commissioner shall visit all the check points of Delhi on 09th April, 2015 and report to the Tribunal for compliance of the direction as recorded in the

	orders afore stated. All authorities particularly the police are directed to provide police help to enable the Commissioners to execute the commission. The report shall be submitted to the Tribunal on 10th April, 2015 and shall also include the status of installation of weigh bridges and providing of U-Turn for the vehicles which are overloaded and polluting. The studies have established that the diesel vehicles are major source of pollution and major cause for deteriorating ambient air quality. The studies as indicated in the news reports are not the only material before the Tribunal. We, however, had directed the Central Pollution Control Board to carry out the study on ambient air quality. The report submitted by CPCB to the Tribunal clearly show that the parameters are totally violated. Comparatively the air quality in Lajpat Nagar appears to improve, but still it is infringing the prescribed parameters quite seriously. The analysis has been carried on 24th and 25th March, 2015 when it was preceded by restricting of traffic in Lajpat Nagar in terms of order of NGT. At site I, PM₁₀ level against the prescribed value of 100 µg/m³, it is found to be 162 and 211 µg/m³ respectively. In relation to PM_{2.5}, against the prescribed value of 60 µg/m³, it is found to be 89 and 120 µg/m³, respectively. At site II, PM₁₀, against the value of 100 µg/m³, has been found to be 180 and 201 µg/m³. This shows that the ambient air quality is still harmful for human health in one area. Other study report mentions much worse about other parts of Delhi. NOIDA is stated to be worse than Delhi even. We may also mention that many of countries of the world are in the process of doing away with diesel vehicles and are imposing very heavy taxes and

	levies on such vehicles. Such countries include amongst other Brazil, China, Sri Lanka, Denmark and Paris. We have already noticed that certain stringent measures need to be taken to improve the ambient air quality in NCR, Delhi and to ensure that the residents of this area do not travel closer to ill-health by each breath that they take. Thus we hereby direct that all diesel vehicles (heavy or light) which are more than 10 years old, will not be permitted on the roads of NCR, Delhi. All the registering authorities in the state of Haryana, U.P. and NCT, Delhi would not register any diesel vehicle which is more than 10 years old and shall file the list of vehicles before the Tribunal and provide the same to the Police and other concerned authorities. Petrol vehicles which are more than 15 years old and diesel vehicles that are more than 10 years old shall not be registered in the NCR, Delhi. In relation to further improving Lajpat Nagar market congestion and to prevent undue emission from vehicular pollution, we hereby direct :- 1. That the area where cement Jersey barrier have not yet been installed, should be installed immediately and reported to the Tribunal. In the meanwhile, protective barrier consisting of three layered ropes should be provided all along the mid-section of the road to ensure free flow of traffic. No space for U-Turn should be left from one of the road to another. 2. No hawker or any other trolleys would be permitted to be parked or stationed on the metalled path of the carriage way. Parking of cars shall be permitted strictly in terms of the previous order of the Tribunal.

		List the matter for further direction and for compliance of the above direction on 10th April, 2015 at 02:00 PM. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



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

Original Application No. 21/2014

And

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A NO. 155/2015, M.A NO. 394/2015, M.A NO. 412/2015 TO M.A NO. 414/2015, M.A NO. 420/2015, M.A NO. 502/2015, M.A NO. 618/2015, M.A NO. 631/2015, M.A NO. 683/2015, M.A. NO. 778/2015, M.A. NO. 812/2015, M.A. NO. 1014/2015, M.A. NO. 1015/2015, M.A. NO. 1029/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015, M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A. NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO. 475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO. 523/2016, M.A. NO. 545/2016, M.A. NO. 564/2016 , M.A. NO. 567/2016 , M.A. NO. 578/2016 , M.A. NO. 660/2016 , M.A. NO. 661/2016 , M.A. NO. 545/2016 & M.A. NO. 567/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

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Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present:	Applicant:	Mr. Sanjay Upadhyay and Mr. Salik Shafique, , Advvs.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Advvs. For MoEF & CC Mr. Rajiv Bansal and Mr. Kush Sharma, Advvs. For DDA Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advvs. for Transport Deptt. and GNCTD Mr. Raman Yadav, Adv. for GDA Mr. Om Prakash, Adv. for Ministry of Railways Ms. Sakshi Popli, Adv. for NDMC Mr. R. Rakesh Sharma and Mr. Maruthasamy, Advvs. for State of Tamil Nadu & TNPCB

Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Pinaki Mishra, Sr. Adv. with Mr. Mukesh Verma, Advs. For MPCB/State of Maharashtra
Mr. Taruna A. Prasad, Adv. for MoEF
Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. for PWD, Delhi Police and Transport Dept.
Mr. Devraj Ashok, Adv. for State of Karnataka and KSPCB
Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Advs. For MoUD/PNG R.No.-2-6
Mr. V.K. Shukla, Adv.
Anil Grover, AAG and Mr. Rahul Khurana, Advs. for State of Haryana
Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Adv. for State of Rajasthan & RSPCB
Mr. Pragyan Pradip Sharma and Mr. Ravi Kant Paul, Advs. For State of Mizoram
Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs. for State of Telangana
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC
Ms. Puja Kalra, Adv. for North and South MCD
Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA
Mr. Jogy Scaria and Ms. Beena Victor, Advs. For State of Kerala and KSPCB
Ms. Asha Nayar Basu and Mr. Amit Agarwal, Advs. For West Bengal PCB
Mr. Alpana Poddar and Mr. Raj Kumar, Advs., for CPCB
Mr. Balendu Shekhar and Mr. Akshay Abrol, Advs. For EDMC
Mr. Pinky Anand, ASG with Ms. Somya Rathore, Adv. Dept of Heavy Inds. Along with Mr. Rajesh Ranjan, Adv. and Mrr. Balendu Shekhar, for MoRTH, NHAI, CONCOR
Ms. Nandini Gore and Ms. Khushboo Basi, Advs. for Tata Motors Ltd.
Mr. Sandeep Narain and Mr. Ashok Bannidinni, Advs.
Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Advs. For Andman and Nicobar Admin.
MR. Edward Belho, Mr. K. Luikang Michael and Elix Gangmei, Advs. For State of Nagaland and PCB
Mr. Darpan Wadhwa, Mr. Arjun S. And Mr. Arnav Kumar, Advs. For Applicant in MA 660 to 669/2016.
Mr. Anil Shrivastav, Mr. Pranav Rishi, Ms. Sanyam Saxena and Ms. Astha Sharma, Advs. for Arunachal Pradesh and Pollution Control Board
Mr. Pragyan Sharma and Mr. Ravi Kant, Advs. for State of Mizoram and Mizoram SPCB
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. Z.H. Isaac Haiding, Advs. for State of Manipur

Ms. Aruna Mathur, Ms. Anuradha Arputham and
Ms. Avneesh Arputham, Advs. for State of Sikkim
Mr. Suryanarayan Singh, Sr. Addl. AG for State of
Himachal Pradesh
Mr. Simranjeet Singh, Adv. for NHAI
Mr. Vijay K. Sondhi and Ms. Cauveri Birbal, Mr.
Aranyak Pathak and Ms. Avantika, Advs.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs. for
Punjab PPCB
Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar
and Mr. Prashant Mathur, Advs. for State of A.P.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar
Nigam
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Rudreshwar Singh and Mr. Gautam Singh,
Advs. for State of Bihar and Bihar SPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 155 of 2015</u> This application relates to relief for vintage car, on 26th November, 2014 and 28th November, 2014. Proper orders had already been passed. No need for passing further order in this Application. Consequently, the M.A. No. 155 of 2016 stands finally disposed of. <u>M.A. No. 284 of 2015</u> Nobody is present on behalf of the Applicant. The application is dismissed for default of appearance. <u>M.A. No. 394 of 2015</u> This application practically has been rendered infrustuous and dismissed as such. However, whatever material has been placed on record, i.e. suggestions or steps to be taken and/or proposed to be taken will be taken at the time of final hearing. No further direction is being passed now. Consequently M.A. No. 394 of 2015 stands disposed of.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 412 of 2015 and M.A. No. 413 of 2015</u> The Applicant in either of these applications is not present. We have heard the Learned counsel appearing for the parties. The prayer in the application is for setting aside order of the Tribunal dated 07th April, 2015 by which it was directed that the diesel vehicles which are more than 10 years old should not be permitted to ply on Delhi roads. Firstly, this application is mis-conceived in as much as after the Tribunal passed order on 07th April, 2015, the same was challenged before the Hon'ble Supreme Court of India and the Statutory Appeal was dismissed by the Hon'ble Supreme Court of India. The old diesel vehicles undisputedly are the source of air pollution. It has been brought on record before us that even during the odd-even enforcement by the NCT, Delhi the ambient air quality of Delhi was not found to be much improved. In fact the parameters remained excessive. In our order dated 04th July, 2016 in Original Application No. 179 of 2016 – Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors. we had noticed the excessive parameters of the ambient air quality which reads as under:- <i>“Learned Counsel appearing for the Central Pollution Control Board submits that the complete and comprehensive analysis report has been placed on record. As per this report the ambient air quality in Delhi during the Odd-Even implementation period is found to be more deteriorated than the one when the said restriction was not inforce.</i> <i>As per the analysis report the average value of PM_{2.5} is higher during odd-even phase than pre odd-even period. During the odd-even period it varied from 63 to 182 as against the pre odd-even when it which varied from 45 to 143. Similarly other parameters like PM₁₀, NO₂, SO₂, CO and Ozone all through the period were noticed to be higher than the pre odd-even period ambient air quality.</i> <i>The Learned Counsel appearing for the NCT of Delhi prays for time to seek instructions and</i>

	Item No. 13 to 17 July 18, 2016 ss	<i>examine the impact of this report on the decision of Government of NCT of Delhi. The Counsel would also require the transport department of NCT of Delhi to give vehicular data and place the same before the Tribunal in relation to prior and during odd-even period.</i> <i>The analysis report even for the first period of odd-even policy, filed on record, is also showing similar trends.”</i> This would show that even during enforcement of odd-even, ambient air quality had hardly improved. This itself is an indicative of the fact that to the extent of pollution being caused by vehicles, it is the old vehicles which substantially contribute majorly to the air quality and therefore they must be stopped. Besides, the fact that the order passed by the Tribunal on 07th April, 2015 has already attained finality and has become binding. We in any case see no reason to vary our said order. In fact that order requires to be enforced more vigorously and effectively by the authorities concerned. It is an accepted fact, not only in India but all over the world, that the emission from diesel vehicle are more injurious to environment and consequently the health of the people than petrol or the vehicles being run on other sources of energy like CNG, Electricity etc. This vehicular pollution could be controlled by not permitting the vehicles causing emissions which would increase PM₁₀, PM_{2.5}, SO₂ and NO_x in the ambient air quality of that place. Furthermore, it is the NCR Delhi where the vehicular density is very high, the prohibitory directions have been passed. The same very vehicles could be driven in other places where there is larger space available for dispersion and dilution of vehicular emission from such vehicles. Be that as it may, we are of the considered view that

	Item No. 13 to 17 July 18, 2016 ss	there is no occasion for the Tribunal to set aside the order date 07th April, 2015. It has been pointed out by the various Authorities including Delhi Traffic Police that they have made definite attempts to stop diesel vehicles which are more than 10 years old to ply on the road, but efforts hardly had met with any success. Few challans and fines of a smaller amount have been made under the Motor Vehicle Act which has not lead to any tangible impact. It is also stated that impounded vehicles are released by Learned Magistrate in exercise of their jurisdiction under the Motor Vehicles Act. Consequently, we hereby direct that the RTOs of NCR, Delhi, Haryana, Rajasthan will deregister all the diesel vehicles which are more than 10 years of age. Upon deregistering such vehicles they will supply the list of all deregistered vehicles to the Traffic Police which in turn to take appropriate steps as already directed under the order of the Tribunal and under the provision of the Motor Vehicle Act. The Traffic Police and the RTO shall issue public notice of these orders forthwith. It is to be noticed here that other major sources of air pollution in Delhi are from dust and burning of waste for which we have already passed detailed directions separately and we required Central Pollution Control Board, Delhi Pollution Control Committee, NCT, Delhi and all other Public Authorities to file the Status report in relation to compliance of the directions already issued by the Tribunal in this case vide order dated 10th April, 2015. M.A. No. 412 of 2015 is accordingly disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 413 of 2015</u> This application is filed on behalf of DTC praying that it should be permitted to operate 56 numbers of diesel trucks, out of these 6 trucks are less than 10 years old and 30 trucks are between 10 to 11 years old and 20 are between 12-13 years old. In view of the above order, the trucks which are less than 10 years old can be permitted to run and utilized by the DTC but only for another period till they become 10 years old. The vehicles which are more than 10 to 13 years old or which are above 10 years old should be replaced immediately by the DTC by new trucks. It is to be noticed that diesel trucks are the serious contributory of the air pollution and as their emissions are more injurious to the human health besides they cause serious ambient air quality deterioration. With the above directions M.A. No. 413 of 2015 stands disposed of. <u>M.A. No. 414 of 2015</u> The Learned counsel appearing for the parties pray for time to seek instruction. List this matter on 20th July, 2016. <u>M.A. No. 420 of 2015</u> The applicant is not present however the prayer made in this application is already covered by the Tribunal, where it has been held that no route is feasible as well as for diversion of traffic at this stage. With the above observations the M.A. No. 420 of 2015 stands disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 502 of 2015</u> We have heard the Learned counsel appearing for the parties. The prayer made in this application is that fire-fighting vehicles, 112 number may be permitted on the road of Delhi which are diesel vehicle. We make it clear that if the diesel fire-fighting vehicles are less than 10 years old they can ply on the Delhi road; if they are more than 10 years age, the Department shall take immediate steps to replace the said vehicle by new vehicles and old vehicles more than 10 years old would either be condemned and or they should be sent outside to the areas where air dispersion is much higher and vehicular density is less. The area are to be identified by the Government in terms of order of the Tribunal. Let the appropriate steps in that now be taken as per the order passed by the Tribunal. With the above directions M.A. No. 502 of 2015 stand disposed of. <u>M.A. No. 618 of 2015</u> Nobody is present on behalf of the Applicant. The application stands dismissed for default of appearance. <u>M.A. No. 631 of 2015</u> This application is for giving list of comprehensive suggestions in relation to vehicular pollution. The same would be considered by the Tribunal when the matter would be finally disposed of. With the above directions M.A. No. 631 of 2015 stands disposed of. No order as to cost. <u>M.A. No. 683 of 2015, M.A. No. 812 of 2015 and M.A. No. 1014 of 2015</u> In view of the order passed in M.A. No. 412 today,

	Item No. 13 to 17 July 18, 2016 ss	this application deserved to be dismissed and is hereby dismissed. No order as to cost. <u>M.A. No. 1015 of 2015</u> Application is allowed subject to just exception the certified copy of the annexures should be filed in due course. With the above directions M.A. No. 1015 of 2015 stands disposed of. <u>MA. No. 1029 of 2015</u> This application is also deserved to be dismissed, in view of the order passed in M.A. No. 412 today. The M.A. No. 1029 of 2015 stands disposed of accordingly. <u>M.A. Nos. 660 of 2016 to 669 of 2016</u> All these application are allowed subject to the conditions that all the tankers are BS-IV compliance and they are less than 10 years of age (it is stated that these are new tankers which are replacing the old tankers). Further these vehicles will only be used for transportation of fuel within the territory of Delhi. We further direct that trucks carrying national permit if they are in excess of 10 years age will not be permitted to use in NCR, Delhi. We further direct the Applicant and all similarly placed persons to gradually phase out all the diesel vehicles which carrying fuel if they are more than 10 years old. The M.A. Nos. 660 to 669 of 2016 stand disposed of accordingly.

Item No. 13 to 17 July 18, 2016 ss	<u>Main Matter</u> The noise pollution arising from horns in the vehicle, and their undue and unlawful use by car drivers even including two wheelers, and the use of pressure horns by the trucks and other heavy vehicles is a source of serious noise pollution in Delhi. It is adversely affecting the noise level in Delhi and even the sound of vehicles is the source of noise pollution particularly DTC Buses. All the concerned authorities need to pay attention to this aspect before the noise level go to an extent where it is not possible to retrieve and bring the noise level to the permissible decibel level. It is also pointed out at the bar that the noise barriers put up on the flyover are in a damaged condition and in a number of flyovers, no sound barrier or walls have been put up at all. In view of the above we direct that no vehicle of any kind plying in NCR, Delhi would be permitted to use pressure horns which are not fixed by the manufacturer of vehicles. Furthermore, we direct that the DDA, NCT, Delhi, DPCC and MoEF to file a detailed affidavits placing on record their suggestions and the methodology that are required to be adopted for controlling this menace, including the directions that should be issued by the MoEF and Central Pollution Control Board for using of horns in Delhi. Ministry of Transport also be issued Notice. Notice returnable on next date of hearing. The two wheelers who are using pressure horn or have removed their silencers should not be permitted to ply on the road on NCR Delhi. The authority would also submit their report stating as to whether the silence zone

	Item No. 13 to 17 July 18, 2016 ss	around school, hospital etc. have been identified in NCT, Delhi or not, if not, a complete and comprehensive proposal for declaring and identifying silence zone should be placed before the Tribunal on the next date of hearing. This matter be listed for further directions on 20th July, 2016, however on other issues we would give a separate date. The Original Application No. 181 of 2013 also be listed on that day. The Ministry of Heavy Industry, Government of India has taken stand that ban on vehicles should not be for period less than 15 years. We find that this contention is de-horse any study carried out by any competent agency. The Learned counsel appearing for the Ministry of Heavy Industry submits that she will place on record complete status report in relation to the viability of electric and hybrid transport system in India. Further, she will also place on record the benefits that the ministry proposes to give to the people who will buy such vehicles. We also direct that in the status report affidavit it will also be stated as to how does the Ministry propose to increase manufacturing of electric and hybrid buses and car in our country to reduce both air and noise pollution. It will also be stated as to what incentive is proposed to be given. Furthermore, it would also be stated in the affidavit as to what benefit will be provided to the persons who wishes to condemn and scrap their old diesel vehicles and petrol cars. The Ministry will issue letter to every Chief Secretary of the State within one week from today stating

Item No. 13 to 17 July 18, 2016 ss	benefits which would be available for condemning old vehicles to the people living in various parts of the country. Response of those State Governments, if received by the Ministry should be placed before the Tribunal and letter should say that Tribunal would hear the matter on merit on next date on their behalf. List this matter on 20th July, 2016. The Learned Counsel appearing for the Municipal Corporation (North and South) submits that there is a typographical error in the previous order dated 11th July, 2016, at line no. 8, it should be 10,000 Sq. Ft. instead of 10,000 Sq. Mtrs. Let the same be corrected in the order dated 11th July, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. Mr. Mukesh Verma, Adv. appearing for the State of Maharashtra and Maharashtra Pollution Control Board submits that he appeared along with Mr. Pinaki Misra, Sr. Adv. on 31st May, 2016, but their appearance could not be marked in the order sheet. Let their appearance be marked in the order dated 31st May, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore)

	Item No. 13 to 17 July 18, 2016 SS	,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)



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

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 414/2015, M.A. NO. 778/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015,
M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A.
NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO.
475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO.
545/2016, M.A. NO. 564/2016, M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO.
690/2016 & M.A. NO. 708/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

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Sanjay Kulshrestha Vs. Union of India & Ors.

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Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant:

Mr. Raj Panjwani, Sr. Adv., Salik Shafique and Ms. Divya Sharma, , Adv.

Dr. Sanjay Kulshrestha, Applicant in person

Respondent No. 1:

Ms. Panchajanya Batra Singh, Adv. For MoEF & CC

Mr. Rajiv Bansal, Mr. Kush Sharma and Mr. Keshav Datta, Adv.

Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Adv. for PWD, Delhi Police and Transport Deptt.

Mr. Naginder Benipal, Adv. for Mr. Anil Soni, AAG

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv.

Mr. Rajul Shrivastava, Adv. MPPCB

Ms. Sakshi Popli, Adv. NDMC

Mr. Soumayajit Pani, Adv. for State of Odisha

Mr. Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Adv.

Mr. Raman Yadav, Adv.

Mr. Atul Jha Adv. for State of Chattisgarh

Mr. Devraj Ashok, Adv. for State of Karnataka

Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Adv.

Mr. Balendu Shekhar and Mr. Akshay Abrol, Mr. Eishan Bahuguna, Adv. for EDMC

Mr. Pinky Anand, ASG, Mr. Rajesh Ranjan, Ms. Somya Rathore and Mr. Balendu Shekhar, Adv. for Ministry of RTH and Ministry of Heavy Industries, MoEF

Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Adv. for Andaman & Nicobar Administration

MR. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Adv.

Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv.

Ms. Puja Kalra, Adv. for NDMC, SDMC

GNCTD

Mr. Pragyan Sharma and Mr. Ravi Kantt, Advs. for State of Mizoram
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. S. Vijayanand, Advs. for State of Manipur
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs.
Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Suryanarayan Singh, AAG
Mr. Narnedner Pal Singh, Adv. Ms. Guneet Khehar, Adv. for Mr. Tarunvir Singh Khehar, Adv. for GNCTD
Mr. Jogy Scaria, Adv. for State of Kerala and SPCB
Mr. Raj Kumar, Adv. Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., CPCB
Mr. Mukesh Verma, Adv. for MPCB
Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad Mr. Arun K. Gupta, LO
Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
Mr. Dileep Poolakkot, Adv. for State of Goa
Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
Mr. Jayesh Gaurav, Adv. for JSPCB
Ms. Priyanka Sinha and Mr. Shridhar Sawrup, Advs. for State of Jharkhand
Ms. Varsha Poddar advs. for State of Tripura
Ms Nandini Gore and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd.M. A. No. 172 of 2016
Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
Mr. Sandeep Narain and Ms. Khushboo, Advs.
Ms. Diksha Sharma, Adv. for Mr. Muzzaffr Khand s/o Ayyab Khan
Mr. Shiv Mangal Sharma, AAG, Mr. Adhiraj Singh and Mr. Sarurabh Rajpal, Advs. for Rajasthan PCB
Mr. R. Rakesh Sharma and Mr. M. Samy Adv. for State of Tamil Nadu and TNPCB
Mr. Gaurav Kr. Bansal and Ms. Antima Bazaz, Advs. In MA 264/2016
Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
Mr. V.K. Shukla, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs.
Mr. Karan Grover, Adv. for NHAI
Ms. Taruna A. Prasad, Adv. for MoEF
Mrs. Rani chhbhra and Ms. Priyanka Samy, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item Nos. 06 to 09 July 20, 2016 HA + A	<u>MAIN MATTERS</u> In continuation of our order dated 18 th July, 2016 we pass the following further directions for appropriate and effective implementation of the directions issued. 1. We make it clear that deregistration of the diesel vehicles, more than 10 years old shall be complied

	Item Nos. 06 to 09 July 20, 2016	with effectively and without default. However, the deregistration authorities are directed to start deregistration with reference to the oldest of the vehicles, in other words at the first step the vehicles which are more than 15 years old would be deregistered and then gradually other vehicles would be deregistered from 15 years to 10 years respectively. 2. All the vehicles which are deregistered in Delhi/NCR would not be permitted to ply in Delhi/NCR. However, the authorities will issue NOC for such vehicles to be registered outside the Delhi/NCR. We further clarify that in terms of the orders of the Tribunal every State has to identify areas where the dispersion of the air is higher and vehicular density is least, if the States have not done it so far we grant last opportunity to the States and the Union Territories to identify such areas and put them on the respective websites. The RTO, Delhi will issue NOC for transfer of these vehicles only for such areas which are identified by the States. 3. The diesel vehicles which are more than 15 years old and are BS I or BS II compliant shall be scraped and no NOC will be issued for transfer of the vehicles. 4. The vehicles which possess national permit, but are covered under the directions of the Tribunal will also not be permitted to ply in Delhi/NCR. However, they would be permitted to by-pass Delhi and follow the routes directly connecting Haryana and Rajasthan or vice-versa. For instance the heavy

	Item Nos. 06 to 09 July 20, 2016	vehicles are being permitted under the orders of the Tribunal from Panipat and Rewari without entering Delhi. 5. We hereby direct NCT/Delhi to take immediate steps for improving and expanding the mass transportation system. It should introduce proper buses which should preferably be run from destination to destination thus making the travel much easier for the commuters. The buses should be of different kinds, including providing buses to the metro stations. All these buses should be CNG buses or hybrid or electric buses. 6. The DDA is hereby directed to provide space to the DTC and the Police for the purpose of parking of Vehicles, including impounded vehicles. We direct the Chief Secretary, Delhi to take up a meeting with the Commissioner of the Delhi, Vice-Chairmen of the DDA and all the Commissioners of the respective Municipal Corporations, NDMC and Delhi Cantonment Board. Meeting will be held within 1 week from today and the report be submitted to the Tribunal. This would identify the land already given by DDA to the authorities for the purpose of parking to DTC or other authorities for parking of running buses as well as impounded vehicles, it would further identify the sites which are required to be provided for that purpose. The scraping benefit including benefit in purchase of new cars, is under the consideration of the Ministry of Heavy Industries. Let the final view in that behalf be taken

	Item Nos. 06 to 09 July 20, 2016	and the same should be widely published to provide new incentives to the public to scrap their old vehicles. It has been termed by the Ministry as “Scraping Policy”. Learned counsel appearing for the NCT/Delhi has brought to our notice that to orders is needed effectively implement the directions of the Tribunal in relation to the use of pressure horns and motor bikes being driven with intolerable sound which are violative of the prescribed norms. Besides challaning the vehicles under the Motor Vehicles Act, action is also to be taken for violation of the conditions of the registration that is violating the original conditions of the vehicle in which it was registered and the fine provided there is more than Rs. 2000, besides challaning the vehicles for traffic offence. We find that the traffic police should implement the directions and take the above action which is in accordance with law, with a greater vigour and sincerity. We further direct that for generating the undue intolerable sound, in violation of the law, also results in noise pollution and is covered under the prescribed norms in the Noise Pollution Rules which have been enacted under the Environment (Protection) Act, 1986, one of the Scheduled Act of the National Green Tribunal Act, 2010. Therefore we direct that in addition to other actions in accordance with law, such offenders would also be liable to pay Environmental Compensation of Rs. 5,000 per violation on the basis of “Polluter Pays Principle”. Let this fine be also collected by the Traffic police and be deposited in a separate account that would be maintained by the Delhi Police or the NCT Delhi as the Chief Secretary of Delhi may decide. In the event of default of the payment of the Environmental

	Item Nos. 06 to 09 July 20, 2016	Compensation, the traffic authority is at liberty to approach the Tribunal by issuing notice to such violator to be present before the Tribunal for the offence. List these matters for hearing on 28th July, 2016. In the meanwhile, liberty is granted to the States to file their response. <u>M.A. No. 414 of 2015</u> In view of the order passed by us above this Application does not survive for consideration. Accordingly, M.A. No. 414 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 778 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 778 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1086 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 1086 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1313 of 2016</u> In view of the order passed by us above this

	Item Nos. 06 to 09 July 20, 2016	Application does not survive for consideration. Accordingly, M.A. No. 1313 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 156 of 2016</u> This is an application with reference to the exemption to be granted to vintage and antique vehicles from the orders of the Tribunal dated 26th November, 2014. Learned counsel appearing for the main Applicant and NCT of Delhi submit that they have some objections in regard thereto. List this matter for hearing on 28th July, 2016. <u>M.A. No. 172 of 2016</u> At the request of the Learned counsel appearing for the parties the matter is adjourned to 28th July, 2016. <u>M.A. No. 211 of 2016</u> Nobody is present on behalf of the Applicant; none was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 211 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 253 of 2016</u> We have heard the Learned counsel appearing for the parties. The Application is allowed limited to the extent that vehicles would be permitted to be registered with the RTO office of Delhi but these buses would not run in NCT of

	Item Nos. 06 to 09 July 20, 2016	Delhi but would ply between its destination point to Kathmandu. To that extent this Application is allowed subject to just exception. Accordingly, M.A. No. 253 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 268 of 2016</u> This Application is filed for postponement of the date of hearing of the matter. The matter is already heard. Therefore this Application does not survive for consideration as having become infructuous. Accordingly, M.A. No. 268 of 2016 stands disposed of without any order as to costs. <u>M.A. Nos. 358 of 2016 and 545 of 2016</u> Prayers in these Applications to run Buses from Meerut to Bulandsahar via Hapur. We allow the prayers of the applicants. But we make it clear that these buses will not enter into Delhi, that is Ghaziabad, Faridabad, Gurgaon, Greater NOIDA and Sonipat. Accordingly, M.A. Nos. 358/2016 and 545/2016 stand disposed of without any order as to costs. <u>M.A. No. 360 of 2016</u> We have heard the Learned counsel appearing for the parties. We clarify that the environmental compensation would be imposed on slab basis. We find that the prayer made in this Application is just and fair and if the offending construction in plot upto 100sq.mt. the

	Item Nos. 06 to 09 July 20, 2016	environmental compensation would be Rs. 10,000/-, if the offending construction is in more than 100 sq. mtr. But upto 200sq.mt., the environmental compensation would be Rs. 20,000/-, if the offending construction is in a plot of more than 200 sq. mt. but less than 500sq. mt. the environmental compensation would be Rs. 30,000/-, while the offending construction is in a plot area of more than 500 sq.mt. the environmental compensation would be Rs. 50,000/- as already directed by the orders of the Tribunal. Wherever the constructed area is more than 20,000 sq. mtr. The environmental compensation would be Rs. 5 Lakhs. This rate will operate prospectively. Accordingly, M.A. No. 360 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 406 of 2016</u> We have heard the Learned counsel appearing for the parties. We direct that all the Authorities in NCT of Delhi including DDA, NDMC, All Municipal Corporation of Delhi and Delhi Cantonment Board that they would ensure that there is no burning of any kind of waste in open or otherwise and for every default occurrence the person would be liable to pay Rs. 5000 /- as environmental compensation to the Officer of the respective Agencies. Even the matter could be reported to Delhi Police also. Accordingly, M.A. No. 406 of 2016 stands disposed of without any order as to costs.

	Item Nos. 06 to 09 July 20, 2016	<u>M.A. No. 567 of 2016</u> List this matter for arguments on 28th July, 2016. <u>M.A. No. 708 of 2016</u> This application is for placing additional documents on record and has been filed on behalf of the Department of Heavy Industries, Government of India. There is no objection to these applications, the Application is allowed subject to just exception. Let the documents be furnished to all the parties appearing in the case during the course of the day. Accordingly, M.A. No. 708 of 2016 stands disposed of without any order as to costs. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore) ,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)

Item No.2:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

(Through Video Conference)

Original Application No. 183 of 2016 (SZ)

IN THE MATTER OF:

Shri Vinay Shivanand Naik
Aged about 32 years
S/o. Shivanand P Naik
#101, 2nd Floor, 9th Main Road,
Gokula 2nd Phase, Mathikere,
Bengaluru – 560 054. Karnataka.

... Applicant(s)

Versus

State of Karnataka
Through the Department of Transport,
Vidhana Soudha,
Ambedkar Veedhi
Bengaluru – 560 001
Rep. by its Chief Secretary and Ors.

...Respondent(s)

For Applicant(s):

Mr. Jayakumar S Patil, Sr. Adv. along with
Mr. Anu Ganesan.

For Respondent(s):

Mr. Darpan K.M. along with
Mr. Rajat Jonathan Shaw for R1.
M/s. P.D. Surana along with
M/s. Kavitha for R2, R3, R5, R6.
Mr. R. Thirunavukarasu for R4.
M/s. Giridhar and Sai for R7.
Mrs. Me. Saraswathy through
Mr. Meyyappan for R9.
Mr. Bharadwaja Rama Subramaniam
along with Mr. Nalina Gouda for R11.

Judgment Pronounced on: 13th April 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

ORDER

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment.

Pending interlocutory application, if any, shall stand disposed of.

Sd/-
Justice K. Ramakrishnan, JM

Sd/-
Dr. Satyagopal Korlapati, EM

O.A. No.183/2016 (SZ),
13th April 2022. Mn.

NGT

Item No.2:-**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI***(Through Video Conference)***Original Application No. 183 of 2016 (SZ)**

IN THE MATTER OF:

Shri Vinay Shivanand Naik
 Aged about 32 years
 S/o. Shivanand P Naik
 #101, 2nd Floor, 9th Main Road,
 Gokula 2nd Phase, Mathikere,
 Bengaluru – 560 054. Karnataka.

... Applicant(s)

Versus

- 1) State of Karnataka
 Through the Department of Transport,
 Vidhana Soudha,
 Ambedkar Veedhi
 Bengaluru – 560 001
 Rep. by its Chief Secretary
- 2) The Karnataka State Road Transport Corporation (KSRTC)
 K.H. Road, Bengaluru – 560 027
 Rep. by its Chairman
- 3) Bengaluru Metropolitan Transport Corporation (BMTCL)
 K.H. Road, Bengaluru - 560 027
 Rep. by its Chairman
- 4) Karnataka State Pollution Control Board,
 P U Building, M.G. Road,
 Sivanchetti Gardens
 Bengaluru – 560 001.
 Rep. by its Chairman
- 5) North West Karnataka Road Transport Corporation
 Gokul Road, Hubli,
 Karnataka.
 Rep. by its Chairman.
- 6) North – East Karnataka Road Transport Corporation
 Central Office, Transport House Main Road,
 Kalburagi
 Rep. by its Chairman.

- 7) GAIL (India) Limited
Rep. by its Managing Director
GAIL Bhawan, 16 Bhikaji Cama Place,
R.K. Puram, New Delhi – 110 022.
- 8) Ministry of Petroleum & Natural Gas,
Rep. by its Secretary,
Shastri Bhawan, New Delhi – 110 001.
- 9) Ministry of Environment, Forests & Climate Change,
Rep. by its Secretary,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110 003.
- 10) Ministry of Road Transport and Highways
Rep. by its Secretary, Parivahan Bhawan,
No.1 Parliament Street,
New Delhi – 100 001.

(Respondents No.7 to 10 were impleaded as per Order dt.12.01.2017)

- 11) M/s. GAIL Gas Limited
3rd Floor, MS Complex
S-44 New BEL Road,
RMV II Stage, Bengaluru – 560 054.

(R11 impleaded as per order dt.27.02.2017)

...Respondent(s)

For Applicant(s): Mr. Jayakumar S Patil, Sr. Adv. along with
Mr. Anu Ganesan.

For Respondent(s): Mr. Darpan K.M. along with
Mr. Rajat Jonathan Shaw for R1.
M/s. P.D. Surana along with
M/s. Kavitha for R2, R3, R5, R6.
Mr. R. Thirunavukarasu for R4.
M/s. Giridhar and Sai for R7.
Mrs. Me. Saraswathy through
Mr. Meyyappan for R9.
Mr. Bharadwaja Rama Subramaniam
along with Mr. Nalina Gouda for R11.

Earlier Judgment Reserved on: 29th November 2021.

Reopened on: 20th December 2021

Judgment Reserved on: 20th December 2021.

Judgment Pronounced on: 13th April 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

Whether the Judgment is allowed to be published on the Internet – Yes/No

Whether the Judgment is to be published in the All India NGT Reporter – Yes/No

J U D G M E N T

Delivered by Justice K. Ramakrishnan, Judicial Member

1. The above application has been filed by the Original Applicant alleging vehicular pollution being caused in Bangalore City for taking steps to phase out the old public diesel vehicles by the State of Karnataka and the remedial measures to be taken for that purpose. The applicant filed this application stating that the Right to Life is precious fundamental right enshrined under Article 21 of the Constitution of India which includes, right to get clean air.
2. It is also alleged in the application that is a primary responsibility of the State to provide such environment so as to protect its citizens, especially the health of the children. The level of air pollution in Bangalore has been in increasing trend at an alarming rate for over 1 ½ decades. The scientists at Tel Aviv University on pollution trends for 189 megacities, by

analyzing eight years worth of data from three of NASA's high tech aerosol monitoring satellites, shows Bangalore experienced 34% increase in aerosol concentration (air pollution) between 2002 to 2010. Aerosols are particulate matter i.e., very fine particles suspended in the atmosphere and aerosol pollutants are one of the most harmful constituents of polluted air/environment.

3. The applicant had produced the article published in the American Journal of Climate Change, together with a summary thereof as Annexure - 1. It was alleged in the application that the 4th Respondent sets the current rate of increase in air pollution in Bangalore at 5% per day. The city is being polluted to such a level that the health impact on infants, the youth, the poor and the old are becoming predominant and rampant. On 13th February 2015, the Deccan Herald quoted that the 4th Respondent's Chairman Shri. Vaman Acharya saying *"the City is becoming like Beijing when it comes to pollution"*. The news which was published in DNA newspaper on 04th May 2015, at 05:31 IST states *"Bengaluru ranks second in the list of cities which have highest air pollution level"*. The children are most affected by increase in the level of air pollution. The said newspaper report was produced as Annexure - 2 Series.
4. Further, it was also alleged in the application that the vehicular air pollution and especially pollution caused by diesel vehicles is one of the largest contributors to air pollution especially in the cities such as Bangalore. The applicant had relied on the decisions of the Hon'ble Apex Court in **M.C. Mehta Vs. Union of India**¹ wherein, it was emphasized that one of the causes of mortality is air pollution and air pollution caused

¹ (2002) 4 SCC 356

a risk of lung cancer and respiratory organs are affected by the pollutants and another lung disease on account of vehicular pollution.

5. The applicant also reiterated the statistics relied by the Hon'ble Apex Court in *M.C. Mehta's* case for the purpose of insisting the necessity for giving directions to take steps for getting clean air, so that the future generation did not suffer from the ill health. The applicant further contended that the 1st Respondent is not implementing sufficient precautionary methods to prevent/reduce the air pollution in terms of guidelines issued by the Hon'ble Apex Court in the year 2002.
6. The applicant also relied on the decision of the Hon'ble High Court of Karnataka in the year 2004 in **Karnataka Lorry Malikara Okkuta Vs. State of Karnataka**² wherein, a direction was issued to the State authorities to evolve some scheme, after considering the details. The Government should also give sufficient time to the vehicle owners for replacement of the old vehicles, in a phased manner, to make available the CNG fuel and to have the vehicles converted to it in a phased manner. The authority concerned should overall monitor and check the two wheelers, four wheelers and other types of vehicles including commercial/transport vehicles as well as passenger vehicles, at important functions, and to see that they do not violate the prescribed norms of pollution and the traffic rules and to ensure the safety and welfare of the public. The authorities concerned are also free to take note of the direction issued by the Hon'ble Apex Court in *M.C. Mehta's* case.

² (2004) 6 Kar LJ 1

7. It was further alleged in the application that on 17.08.2014, to the best of knowledge of the applicant, not even one CNG bus is plying in Bangalore in compliance with the direction. The report prepared by the Department of Forest, Ecology and Environment, Government of Karnataka also well aware of the adoption of CNG where an emphasize has been made in the report as *"There is a need to emphasize well-known truisms that vehicles should be maintained in good conditions, that adulterated fuel should not be used and that the use of LPG and CNG as fuel can reduce air pollution"* and the relevant portion of the report was produced by the applicant as Annexure - 3. That also emphasizes the necessity to prevent ill effects of air pollution on account of vehicular pollution on children, adults and senior citizens. The 2nd Respondent in their website, title '*Natural Gas - A Greener Alternative*' also gives the details regarding the possibility of less pollution from the CNG when compared to other fuels and that was extracted by the applicant in the application as follows:-

Fuel Emissions	Co ₂	UHC	CO	No _x	So _x	PM
Petrol	22,000	85	634	78	8.3	1.1
Diesel	21,000	21	106	108	21	12.5
CNG	16,275	5.6	22.2	25.8	0.15	0.29

8. They produced the report issued by the 2nd Respondent as Annexure - 4. The Hon'ble High Court of Karnataka also in Suo Motu matter relating to air pollution, directed the State of Karnataka to comply with the suggestions given by the State Pollution Control Board by order dated 29.04.2015, evidenced by Annexure - 5 and copy of the final order dated 01.07.2015 was produced as Annexure - 6. He has given the details of the quotes made by the Ministry of Transport in one of the newspaper

regarding the necessity for conversion of diesel vehicles to green fuel vehicles, evidenced by Annexure – 7 Series. They have also reiterated the necessity of regulating the diesel gases in Euro/BS diesel standards and the Hartridge Smoke units fixed in 1986 revised so far. They also produced certain reports of various countries as Annexure – 9, 10, 11 and 12 in support of their case and he has given the details of BS– IV vehicles issued by the Transport Corporation.

9. According to the applicant, at the rate at which they want to phase out the old diesel vehicles, will take more than 23 years to complete the process. He also relied on the Annexure – 13, Report reiterating the necessity of going for new environment friendly Clean and Green Fuel vehicles. The applicant herein filed a Writ Petition before the Hon'ble High Court of Karnataka as **W.P. No.51663 of 2015 (Vinay Shivanand Naik Vs. State of Karnataka & Ors.)** and the Hon'ble High Court of Karnataka by order dated 05.05.2016, considered the submissions made by the State counsel and then passed the following order:-

"In so far as the Bangalore Metropolitan Transport Corporation (BMTC) is concerned, it transpires that it is negotiating the purchase of numerous Diesel engine buses.

Before finalizing any such purchase, the BMTC shall take this Court into confidence."

10. The said order was produced as Annexure – 14 and thereafter, the above mentioned writ petition was disposed of by the Hon'ble High Court on 22.07.2016 with the following directions, evidence by Annexure – 15.

"5. On hearing learned counsel and considering the interim orders passed by this Court, we are of the view that it would be appropriate for the National Green Tribunal to consider this matter. However, having entertained

this petition and having passed interim orders. It would be just and necessary that the interim orders continue for some time.

6. The petition is disposed off by reserving liberty to the petitioner to approach the National Green Tribunal for necessary orders. The interim order granted by this Court shall continue for a period of two weeks, from the date of receipt of a copy of this order."

11. That prompted the applicant to file this application seeking the following interim as well as final reliefs:-

"Interim Prayer

(i) Direct that all non BS IV diesel buses that are owned or operated by the Government of Karnataka/State RTCs i.e. Respondents No.2, 3, 5 and 6, or its lessees in public transport, that operate in or pass through any portion of greater Bengaluru at any time, shall convert to CNG or use non engine modifying retrofit devices or catalytic treatments or any other similar devices which reflect 30% or more reduction in smoke emissions, within a time frame fixed by this Hon'ble Tribunal

(ii) Direct the respondents that buses not complying with the directions that may be issued pursuant to prayer clause (i) be removed from service and /or scrapped within a time frame fixed by this Hon'ble Tribunal

(iii) Restrain Respondent No.3 – Bengaluru Metropolitan Transport Corporation from procuring any new diesel powered buses and consequently direct Respondent No.3 to procure CNG Buses, as and when the need to procure new buses arises

(iv) Restrain Respondent No.2 – KSRTC from procuring any new diesel powered buses that will ply or pass through greater Bengaluru and consequently direct Respondent No.2 to procure only CNG Buses for that purpose, as and when the need to procure new buses arises.

Main Relief:

a. Direct the Respondents to ensure that all buses plying in and/or passing through the city of Bengaluru, Karnataka (including buses of State RTCs, i.e. Respondents No.2, 3, 5 and 6 and routes leased by them), be converted to CNG within a time frame fixed by this Hon'ble Tribunal.

b. Direct the Respondents to revise the HSU limit at 40 Hartridge Scale Units for all commercial diesel vehicles plying in the State of Karnataka.

c. Direct the Respondents to take additional further action to reduce air pollution being caused on account of diesel vehicular emissions by implementing new policies above and beyond the provisions and regulations in the Central Motor Vehicle Act state wide

d. Pass any other/further orders in the interest of justice."

12. Subsequently, additional Respondents No.7 to 10 and the 11th Respondent were impleaded as per order dated 12.01.2017 and 27.02.2017 respectively.

13. The 4th Respondent filed a reply affidavit contending that the application is not maintainable and there were no specific averments or allegations made against them and no specific relief sought against them. Pursuant to the directions laid down in **Karnataka Lorry Malikara Okkuta Vs. State of Karnataka** by the Hon'ble High Court of Karnataka, the answering respondent has taken several preventive measures which has considerably and effectively reduced the air pollution. They were monitoring the Ambient Air Quality of Bangalore City at 13 locations including two Continuous Ambient Air Quality Monitoring Stations using manual equipments under National Ambient Air Quality

Monitoring Programme (NAMP) covering industrial area, mixed urban area and sensitive area. They have set up two Continuous Ambient Air Quality Monitoring Stations (CAAQMs) one at city railway station and other at Regional Office Complex at S.G. Hali. Monitoring is being carried out on 24 hours basis for RSPM, SO_2 , NO_2 , and Co and the data is sent to the CPCB, New Delhi electronically and also the data is entered in the Board's website. They had also set up Ambient Air Quality Monitoring Stations in mixed zone (Residential, Rural and Other areas) at Bangalore City viz., (i) AMCO Batteries Mysore Road, (ii) Yeshwanthpur Police Station, (iii) Central Silk Board, (iv) DTDC Office, Victoria Road and (v) Kazi Summanahalli, White Field. They have set up Ambient Air Quality Monitoring Stations in sensitive zone at Bangalore City viz., (i) Ambient Air Quality at Victoria Hospital Bangalore and (ii) Indira Gandhi Child Care Centres, NIMHANS. They also setup four Ambient Air Quality Monitoring Stations in the industrial zone of Bangalore city viz., (i) Export Promotional Park, ITPL, (ii) KHB Industrial Area, (iii) Peenya Industrial area (Gymkhana) and (iv) Peenya Industrial area. They issued several directions under Section 31 A of the Air (Prevention and Control of Pollution) Act, 1981 read with 20 (a) of the Karnataka Air (Prevention and Control of Pollution) Rules, 1983 to the BBMP directing to (a) Declare an area not less than 100 meters around all Government hospital in Bangalore and High Court as silence Zone and any other area as deemed necessary for maintaining as silence zone, (b) To declare the traffic junction zone as no honking zone and display signage in consultation with Home Dept., (c) To regulate the developmental activities, installation of air conditioners and blower in commercial establishments, generators etc causing noise pollution and affecting

quality of life and to avoid noise menace and to achieve the objectives of maintaining the ambient air quality standard, (d) To prohibit all sound emitting construction equipments/activities except on going Metro rail works during night time (10 PM to 6 AM). A co-ordination committee was constituted comprising of the Department of Transport, BBMP, BMTC, BDA and Police. Seven Coordination Committee meetings were held between 09.04.2014 to 16.08.2014. Even though, the BBMP has taken certain measures, the same is not adequate in controlling the noise and air pollution which is evident from the noise levels recorded at five different locations by this Respondent. The present noise levels were communicated to the BBMP vide letter dated 07.02.2014 from this Respondent as the noise levels were exceeding the stipulated limits. Increase in RSPM levels is predominately caused by vehicular traffic due to re-suspension of dust accumulated on the road sides, medians, bad maintenance of roads, construction activities without covering the construction area and construction material, un-cleared garbage and setting garbage on fire, frequent road cuttings and non-removal of the excess earth after the repair works, encroachment of footpath by hawkers, conversion of parking area in multi storied buildings and commercial buildings for non- parking commercial use, etc. The Hon'ble Supreme Court of India and the Hon'ble High Court of Karnataka has taken view of the said matter seriously. In fact the Hon'ble High Court of Karnataka during the hearing on 18.08.2014 in the said writ Petition has viewed seriously about the increase in ambient noise and air quality levels. In pursuance to the directions of the High court of Karnataka, this Respondent invoked Section 31(A) of the Air (Prevention and Control of Pollution) Act 1981 and gave a series of directions to

formulate an action plan to implement the following directions so as to improve the air quality in Bangalore city

- (a) To plan comprehensive parking management programme for Bangalore city,
- (b) To initiate action for removal of dust/silt accumulated on road side/medium using mechanical means or regular basis,
- (c) To initiate action for filling potholes and road cutting to facilitate for smooth flow traffic,
- (d) To take action to evacuate non parking activities in area earmarked for parking as per approved building plan,
- (e) To coordinate with Police and Transport department to facilitate proper parking of vehicles,
- (f) To remove encroachment of footpaths by hawkers in market place,
- (g) To avoid open burning of garbage and initiate action to remove the garbage dumped,
- (h) To construct more number of multi level vehicle parking,
- (i) To take action to transport the silt removed from the storm water drains,
- (j) To take action to notify boundaries of residential area, commercial area and silence zone in coordination with the Bangalore Development Authority and Police Department,
- (k) To ensure that the construction and demolition of building are carried out by providing an enclosure,
- (l) To regulate the stocking of construction material to minimal levels at site and debris to be cleared frequently without accumulation,
- (m) To ensure that the BBMP vehicles and the vehicles engaged by the contractors comply with the Noise regulation and Automobile emission regulations, and
- (n) to ensure that the solid waste and debris transportation vehicles are covered.

14. Failing to comply with the above direction, will attract penal action as per

Section 37 of the Air (Prevention and Control of Pollution) Act, 1981.

They have issued several directions under Section 31 A of the Air

(Prevention and Control of Pollution) Act, 1981 read with 20(a) of Karnataka Air (Prevention And Control of Pollution) Rules, 1983 to the Dept of Transport and Road Safety directing to formulate an action plan to implement the following directions so as to improve the air quality in Bangalore city viz.,

(a) To restrict registration of new vehicles in Bangalore City till the noise level and air quality standards are met,

(b) To ban the entry of heavy motor vehicles (HMTVs) within the outer ring road of Bangalore City. The HMTVs shall be terminated at the outer ring road by creating proper facilities for its parking,

(c) To ban the use of two stroke vehicles within BBMP area,

(d) To ban auto rickshaws in central business district of Bangalore city in a phased manner,

(e) To ban use of more than 15 years old HMTVs within Bangalore city,

(f) To intensively check the emission levels of the vehicles to ensure conformity with the stipulated automobile emission limits,

(g) To audit the emission checking centers at regular intervals,

(h) To conduct a comprehensive study and plan for regulating the traffic,

(i) To direct BMTC & KSRTC to convert the existing vehicles to green fuel like CNG and draw a road map for implementation,

(j) To direct KSRTC & BMTC to strictly adhere to the traffic rules viz., lane discipline, parking/stopping of vehicles at designated bus bays/stop,

(k) To impose heavy fine of Rs.1000/- (Rupees-one Thousand only) for vehicles exceeding the automobile emission limits and if the offence is compounded initiate action, to suspend the registration certificate/seize the vehicles,

(l) To conduct awareness programme in Bangalore city to educate the public on following traffic regulations and educate them on the prevailing penal actions using print and visual media service and

(m) To issue necessary notification restricting the sale of fuel in BBMP area for vehicles not having pollution under control certificate.”

15. They have issued several directions under Section 31(A) of Air (Prevention and Control of Pollution) Act, 1981 read with 20(a) of Karnataka Air (Prevention and Control of Pollution) Rules, 1983 to the Additional Commissioner of Police, Traffic Division directing to them to formulate an action plan to implement the following direction so as to improve the air quality in Bangalore city:-

(a) To ban the entry of heavy motor vehicles (HMTVs) within the outer ring road of Bangalore City,

(b) Not to issue of permissions to conduct/organize functions in the road blocking the traffic, movement of pedestrians, use of loudspeakers and public address system in contravention with the Noise (Regulation and Control) Rules, 2000 and Government of Karnataka Notification No. FEE 46 ENV 2000, dated 13.08.2002,

(c) To conduct a comprehensive study and plan for regulating the traffic,

(d) To direct KSRTC & BMTC to strictly adhere to the traffic rules viz., lane discipline, parking/stopping of vehicles at designated bus bays/stop,

(e) To impose heavy fine of Rs. 1000/- (Rupees one thousand only) for vehicles exceeding the noise limits and vehicles fitter with shrill horns and defective/altered silencers not in conformity with regulations,

(f) To coordinate with BBMP and Transport department to regulate the parking of vehicles in Bangalore,

(g) The encroachment of footpaths by hawkers in market place and also during festival season shall be regulated so as to ensure that the hawkers do not obstruct the movement of pedestrian and traffic,

(h) To deploy adequate traffic police/traffic volunteers at strategic locations where there are frequent traffic jams to regulate the smooth flow of vehicles,

(i) To introduce dedicated bus lanes in major road in Central business District of Bangalore city,

(j) To adopt intelligent transportation system by use of automated traffic control system, and

(k) To conduct awareness programme in Bangalore city to educate the public on following traffic regulations and educate them on the prevailing penal actions using print and visual media services.

16. It is further contended that failing to comply with the above directions will attract penal action as per Section 37 of Air (Prevention and Control of Pollution) Act, 1981. After issuing the above said directions to the concerned departments, the Dept. of Forest, Environment and Ecology submitted a short term and long term action plan before the Hon'ble High Court of Karnataka in W.P No. 39432 of 2013, evidenced by Annexure - A produced along with the counter and on the basis of the short term and long term action plan, the Hon'ble High Court disposed of the Writ Petition, directing the State Government and concerned departments including Transport Department, KSRTC and BMTC to implement the written suggestions given by the Pollution Control Board as far as practicable. The co-ordination committee consisting of KSPCB, Dept. of Transport and Road Safety, BWSSE, CPCB, BMTC, BDA and KSRTC were conducting meeting on regular basis wherein representatives of various Departments were submitting their plan of actions to reduce the air pollution and report on effective implementation of the same, and one of the meetings of the Co-ordination Committee was produced as Annexure - B. Further, the Board has procured 12 mobile vans having facility to

check and to conduct joint monitoring Programme to create public awareness. The Additional Chief Secretary of Forest, Environment and Ecology had conducted regular review meetings to ensure the implementation of measures taken to reduce the air and noise pollution and to create public awareness among people. Further, the Board had issued directions to convert the existing vehicles to green fuel like CNG and draw a road map for implementation. The directions issued by the Board in conformity with the directions issued by the Hon'ble Court of Karnataka. So, they prayed for accepting their contentions and passing appropriate directions.

17. Respondents No.2 & 3 have filed a common counter statement denying the allegations made by the applicant in the application, regarding the inaction on the part of these respondents in implementing the direction issued by the Hon'ble High Court of Karnataka in respect of reducing the vehicular pollution caused which has some impact on air pollution in the city. They further contended that most of the directions relied by the applicant issued by the Hon'ble Supreme Court in *M.C. Mehta's* case was relating to situation in Delhi and certain directions were issued depending upon the circumstances and situations brought to the notice of the Hon'ble Apex Court. Several steps have been taken by the State of Karnataka in compliance with the direction issued by the Central Pollution Control Board and also direction issued by the Hon'ble High Court of Karnataka and the pollution has been brought down considerably on account of such implementations. The Motor Vehicles Act was amended in the year 2016 and on the basis of the provisions of the Motor Vehicles Act, certain stringent conditions have been imposed

and there was a direction to phase out the BS- I, II and III diesel vehicles and change over to BS-IV and BS-VI vehicles and certain timelines were given for implementation of the same. The Hon'ble Supreme Court also observed in one of the cases that emission standard of CNG vehicle will be on par with Euro -IV stage make vehicles. The CNG alone is not a solution and there are other type of vehicles available which are more environment friendly. The Hon'ble High Court on the basis of the short-term and long-term measures provided by the State of Karnataka, disposed of the matter, directing them to implement the same and also directed to implement the directions issued by the Pollution Control Board as far as practicable. In view of the final disposal of the writ petition by the Hon'ble High Court of Karnataka relied on by the applicant, lot of further directions were issued than the directions issued by the Hon'ble High Court in the same case which was produced by the applicant and in view of the further directions issued and implementation of the same by Respondents No.2 & 3, most of the grievances raised by the applicant have been redressed. Lot of public vehicles like Auto rickshaws have been converted to CNG and they are trying to BS-VI stage norms which have to be implemented from 01.04.2020 which are better than the CNG vehicles. The possibility of creating pollution on account of use of CNG vehicles and the consequential health hazards cannot be ruled out. They have taken sincere steps to convert BS - I, II and III vehicles to BS-IV and slowly, the old vehicles will be converted to BS-VI, as mandated under the present Motor Vehicles Act. Suddenly changing the old vehicles of BS - I to III will involve in large scale conversion of the engines resulting in huge expenditure which will not be economical and feasible as well. Air pollution is not only due to vehicular pollution but

there are other sources and the cumulative steps will have to be taken for the purpose of meeting the situation and mitigate the danger caused on account of air pollution. They are also anticipating construction of large number of bridges and also signal free roads so as to avoid air pollution which have played a major role in reducing air pollution. Large scale awareness programmes have been conducted to the drivers of the vehicles and also public awareness programmes so as to remind the public of their responsibility to make their contribution to reduce pollution. They have provided smoke testing machines so as to ensure the standard of smoke emission to be regulated and lot of improvements have been made in the workshops so as to maintain the standard of the vehicle to reduce smoke emission which is one of the reasons for pollution. On the basis of the directions issued by the Hon'ble High Court of Karnataka in W.P. No.39432/2013, steps have been taken to provide arterial roads and remove encroachments and regulated parking so as to avoid dust and air pollution. They also made arrangement with the Gas Authority of India Limited (GAIL) and discussed about the possibility of promoting CNG vehicles and also difficulty in procuring the CNG vehicles in an Indian market. Draw backs indicated by Bombay Electrical Supply and Transport Company on account of user CNG vehicles were extracted as follows:-

“a. Many of the spares required for maintenance of fuel system and ignition system are not indigenously manufactured and are not easily available in local market. We have to depend on OEMs for their supply that too at exorbitant cost.

b. Many of the electronic gadgets units are not repairable and at times, there are required to be replaced with new ones at very high cost.

c. Since the CNG vehicles particularly, CNG bus population in country is much less, the vendors are reluctant to come forward for development and supply of the spares required for CNG vehicles.

d. The frequency of clutch, gear and engine failures are more as the operating temperature of CNG engine is higher. The breakdowns in engine, transmissions and electrical system in case of CNG buses are higher.

e. Now the CNG bus fleet is 2862 and the maintenance of difficulties are encountered during the recent past. Considering the frequency of repairs and high cost of labour, the CNG bus maintenance may not be cost effective for larger fleet in the longer run.

f. The filling time required for CNG bus is three to four times more than the diesel bus for which manpower requirement is more.

g. The limited onboard CNG storage capacity restricts the vehicle utilization and needs mid day fueling resulted into dead kms.

h. The drivers comfort is reduced due to higher operating temperature of CNG engine as compared to diesel.

In general, handling CNG as a fuel is difficult.

i. M/s. MGL is the sole agency to supply the CNG having its monopoly. In exigencies of disruption of CNG supply for any reason, the undertakings services will be badly paralysed."

18. The number of accidents caused on account of use of CNG as fuel is also increasing and they have produced Annexure - D, letter to substantiate these aspects. The Council of Scientific and Industrial Research had conducted a study and formulated their finding in the report dated 06.08.2015 evidenced by Annexure - E and the research was conducted by it on the CNG operated buses which revealed that the CNG is not as clean as green or clean fuel as claimed by the applicant. It was also observed in the report that the CNG fuel is dangerous to human life. According to the study, they came to the conclusion that nano carbon particles coming out from natural gas combustion which mix with the atmosphere causing

severe air pollution resulting in lung related diseases and also causing cancer. They also given the details regarding the emission norms of BS- I to VI vehicles as follows:-

Norms	No _x	Co	HC	PM
Bharat Stage I	8.0	4.5	1.1	0.36
Bharat Stage II	7.0	4.0	1.1	0.15
Bharat Stage III	5.0	2.1	0.66	0.10
Bharat Stage IV	3.5	1.5	0.46	0.02
Bharat Stage V	2.0	1.5	0.46	0.02
Bharat Stage VI	0.40	1.5	0.13	0.01

19.They have also given the details of the vehicles owned by the BMTC and according to them, they are having 6,197 vehicles as follows:-

- a) BS – I Stage – No. of buses – 11
- b) BS – II Stage – No. of buses – 781
- c) BS – III Stage – No. of buses – 3757
- d) BS – IV Stage – No. of buses - 1648

20.They are slowly replacing the old BS-I to III vehicles with BS-IV vehicles and as per the present Motor Vehicles Act, they will switch over to the BS-VI vehicles. They also relied on the report prepared on the basis of the study conducted in Deli after the introduction of CNG buses which came to the conclusion that there was no significant change happened even thereafter. Under the AMRUT Scheme of the Central Government, they have agreed to provide an aid of 213.5 Crores for purchase of 150 standard size premium segment AC buses of 400 mm floor – height buses and 350 midi non-AC buses having a floor height of 650 mm and having

unit cost of 28.00 Lakhs per bus and on the basis of the same, they have floated tenders and that process is in the progress. They also given the details of the buses purchased utilizing those funds. The KSRTC is using the blend of diesel and bio diesel as a fuel to run the buses and the bio diesel is manufactured out of vegetable oil, animal fat and naturals like Soya bean oil, Jatropa seed oil etc. The Bio diesel is being used in heavy duty vehicles in cities like United States which significantly reduce the emission level compared to the regular buses. The Karnataka State Road Corporation has also entrusted the work of technical evaluation of emissions which results from the buses using bio diesel and such agencies are Centre for Infrastructure, Sustainable Transportation and Urban Planning (CISTUP) of India Institute of Science, Bangalore, JSS Academy of Technical Education, Bangalore and R.V. College of Engineering, Bangalore. There are 65,85,455 vehicles running as per the statistics available and the number of vehicles operated by the BMTC is only 6,197 and the percentage will be less than 0.16% of the total vehicles. So, it cannot be said that they are responsible for pollution on account of use of their vehicles. Lot of development activities have been made by improving the road infrastructure in several areas to avoid air pollution. They are also strictly complying with the directions issued by the Pollution Control Board in maintaining the standards. Sufficient amount of CNG is not available and BS-VI norms and operation of BS-VI vehicles will be better environmental complaint compared to CNG buses. So, they prayed for accepting their contentions and passing appropriate orders.

21. Respondents No.2 & 3 also filed a memo adopting the statement of objections filed by the Respondents No.5 & 6.

22. The 7th Respondent filed a counter contending that the application is not maintainable and the applicant was relying on the directions given by the Hon'ble Apex Court in M.C. Mehta case and also implementation of the directions by the Delhi Government by introducing CNG vehicles. They further contended that they are the Central Government Undertaking and a Maharatna company under the administrative control of Ministry of Petroleum and Natural Gas, Government of India engaged in procurement, distribution and supply of natural gas including Re-gasified Liquefied Natural Gas (RLNG) and various other petroleum products such as Liquefied Petroleum Gas (LPG) etc. for the usage of the Industrial and domestic consumers. They laid and constructed the Dabhol-Bangalore Gas pipeline project (DBPL) for supplying natural gas to the transport sector, industrial sector and house hold sector consumers in the states of Maharashtra, Karnataka and Goa in the form of natural gas, compressed Natural gas and piped natural gas respectively. The project involved laying of about 1000 Km of gas pipeline, construction of sectionalized valve stations and Gas management centres. Considering the need for development of eco-friendly fuels in the state of Karnataka and also for augmenting the supply of natural gas for achieving increased power production and development of city gas distribution system for ensuring abundant supply of cooking gas for the household consumers and green fuel for the transport sector, the Industrial Development Department of Government of Karnataka, has entered into MOU dated 29.4.2009 with the respondent herein for rendering necessary assistance for the speedy completion of the DBPL project. By Government order dated 19.2.2010, the Government of Karnataka had accorded in principle approval for this gas pipeline project

which covers a total distance of 993 kms with an investment of Rs.4544 crores and gave permission for extending the necessary infrastructure facilities, incentives and concessions to this project. The Government of India had enacted the Petroleum and Natural Gas Regulatory Board Act 2006 (PNGRB Act) under which the Petroleum & Natural Gas Regulatory Board has been established which inter alia grants authorization for City and Local Area Natural Gas Distribution Networks in accordance with the provisions of the said Act and the PNGRB (authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Network) Regulation 2008. They have granted to the GAIL Gas Ltd (GGL), which is wholly owned subsidiary of the 7th Respondent for laying building, operating or expanding CGD network in Bangalore Rural and urban Districts. On the basis of the said authorization, they will be implementing CGD project in Bengaluru Rural and Urban districts including distribution of CNG, evidenced by Annexure - 1 produced along with the counter. So, they wanted to issue direction to the GAIL for implementation of the directions.

- 23.** It is further contended that in compliance with the order of High Court of Gujarat in WPs No.47/2011 and 54/2011, the Ministry of Petroleum & Natural Gas (MoP&NG) had issued guidelines dated 14.11.2013 for allocation of domestic gas to City Gas Distribution (CGD) entities for Compressed Natural Gas (CNG) for transport sector and Piped Natural Gas (PNG) for household/domestic sector. In order to comply with the directions of Hon'ble Supreme Court of India, in M.C. Mehta Vs. Union of India and others in WP No.13029/1985 in 2002, according highest priority to transport sector in allocation of natural gas, MoP&NG had reviewed

the guidelines dated 14.11.2013 and came up with revised guidelines dated 20.08.2014. As per the revised guidelines, the MoP&NG has authorized the 7th respondent to divert domestic gas from non-priority sector to meet the requirement of CNG (transport) and PNG (domestic) segments as per their actual consumption during the previous half year and on that basis, they have diverted the supply. So, they prayed for passing appropriate orders and also undertaken that they will comply with the directions of this Tribunal.

24. The 11th Respondent filed a counter affidavit more or less raising the same contentions raised by the 7th Respondent and also their commitment to supply clean and green fuel in the form CNG and also detailed their experience in Delhi, Gujarat and Mumbai. They also mentioned about various steps taken by them for implementing the scheme in State of Karnataka especially in Bangalore and also given the comparative table regarding the cost effectiveness of operation on the basis of the report submitted by the CISTUP as follows:-

“Table 5.7 : Operating Cost Comparison between CNG Buses and Clean Diesel Buses

Cost Element	CNG Buses	Clean Diesel Buses
	Fuel cost for single bus per year	Fuel cost for single per year
CNG Fuel cost for 250 Km/day for 350 Operational Days	Rs.11,25,000	
Diesel Cost for 250 Km/day for 350 Operational Days		Rs.12,50,560
Total	Rs.11,25,000	Rs.12,50,560

The maintenance cost of CNG buses is lower when compared to diesel buses because the CNG extends engine life primarily because it is a gaseous fuel.

Table 5.8: Cost per Km of Diesel and CNG Buses.

Sl. No.	Description	Regular Diesel Bus	CNG Bus
1.	Initial Cost of the Bus	33 Lakhs	38 Lakhs
2.	Life of the Bus	12 years/10,00,000 Kms	12 years + 30% more/13,00,000* Kms
3.	Initial Cost per Km	Rs.3.3 Per Km	Rs.2.92 Per Km
4.	Operating Cost per km	Rs.14.29 per km	Rs.12.85 per km **
5.	Maintenance Cost	Rs.3 per km	Rs.3.60 per km***
	Total Cost per Km	Rs.20.59 per km	Rs.19.37 per km

** As per a study by SRTD, California, the CNG engines can run for over 250,000 miles while diesel buses can run for over 170,000 miles which is 30 percent more than the diesel bus,*

*** The price of CNG is taken as R\$ 45.00 kg (Bangalore Price) and the mileage of CNG bus is taken as 3.5 km/kg. Whereas the price of diesel is taken as Rs. 54.31 per litre (Bangalore Price) and the mileage of diesel is taken as 3.8 km/litre (BMTC buses average mileage).*

**** The maintenance cost of BMTC buses per km come to around Rs 2.20 but I have taken it as Rs. 3,00 per km. But since the maintenance cost of CNG bus is twenty percent more (average) as per PMP ML and BEST, I have taken it as Rs. 3.60 per km."*

25.They have also given a detailed road map for implementation of CNG conversion in Bangalore to Karnataka State Pollution Control Board evidenced by the Annexure – 4 Series. In the meeting held on 04.06.2016 with the Chief Secretary, State of Karnataka, the Finance Department agreed to consider funding for procuring 200 CNG buses for a period of five years in addition to considering waiving off entry tax. The Chief Secretary emphasized that BMTC should expedite the induction of CNG buses as per the NGT’s order for switchover to green fuel, while citing Government of Karnataka's commitment to curb rising pollution levels evidenced by Annexure – 6 produced along with the counter. They also furnished details of various interim arrangements made with the KSRTC for this purpose. They also further given the future plan for installation of CNG Stations across Bangalore by end of 2017 as follows:-

Sl. No.	Area	Remarks
a.	Magadi Road	Online Station
b.	Sanjeevini Nagar	DBS (Daughter Booster)

		System)
c.	Yeshwanthpur	DBS
d.	Bommasandra	Online Station
e.	Peenya	Online Station
f.	Bethaloor Cross	DBS
g.	Agara Sarjapura Road	Online Station
h.	Mahadevapura	Online Station
i.	Jigani	Mother Station
j.	Dobaspet	Online Station

26. They also expressed their readiness to provide all necessary assistance and also provide necessary vehicles on the Government Sector as well as Private Sector for fulfilling the commitment to fight against pollution. They prayed for passing appropriate orders, considering their contentions.

27. The 10th Respondent also filed a counter contending that the Mass Emission standards for Compressed Natural Gas (CNG) driven vehicles are provided under Rule 115B of Central Motor Vehicles Rules, 1989. The Ministry of Road Transport and Highways has taken proactive steps to curb the problem of vehicular pollution and issued following notifications:

“(i) Ministry has issued notification number G.S.R. 643(E) date 19.08.2015 vide which the Mass Emission Standards for Bharat Stage IV shall come into force all over the country in respect of four wheeled vehicle manufacturers on or after the 1st April, 2017 (Copy Attached at Annexure-I), (ii) This Ministry, vide notification number G.S.R. 889 € dated 16.09.2016 has mandated mass emission standard for BS-VI throughout the country with effect from 1st April 2020 (Copy Attached at Annexure-II) and (iii) Enforcement of notifications is done by the State Transport Authorities.”

28. The Ministry also issued the following notifications to introduce bio fuels in vehicles:-

(i) This Ministry has issued G.S.R. 682(E), dated 12.07.2016 regarding mass emissions standards for flex-fuel (E 85) or (E 100) and ethanol (ED 95) vehicles (Copy Attached at Annexure-III)

(ii) This Ministry has issued G.S.R. 412(E), dated 11/04/2016 introducing Biodiesel (Copy Attached at Annexure-IV).

(iii) This Ministry has issued G.S.R. 498(E), dated 16/06/2015 regarding Smoke test and Bio CNG (Copy Attached at Annexure-V).

(iv) To promote use of electric hybrid vehicles in Delhi, Department of Heavy Industry has notified S.O. 830 E dated 25th March, 2015 notifying the scheme for Faster Adoption and Manufacturing of (Hybrid and) Electric Vehicles in India - FAME. Subsequently, Ministry of Road Transport & Highways has notified two notifications i.e. G.S.R. 364 (E) dated 28th May, 2014 for retro fitment of hybrid electric system kit to in-use vehicles and S.O. 1013 (E) dated 15th April, 2015 which specifies the type approval procedure of electric hybrid vehicles. G.S.R, no. 629(E) dated 24.06.2016 have been notified for Retro fitment of hybrid electric vehicles (Copy Attached at Annexure-VI).

29. It is further contended that the implementation of provisions of Motor Vehicle Act, 1988 and Central Motor Vehicles Rules, 1989 comes under the purview of State Transport Authorities and the concerned Union Territory administration. The applicant had not challenged any of the action of the Ministry of Road Transport and Highways and no relief has been sought against them. So, they prayed for passing appropriate orders, considering their contentions.

30. The 9th Respondent filed a counter affidavit contending that in the administrative structure of the Central Government, the primary concern of the Ministry of Environment, Forest and Climate Change is for the

planning, promotion, co-ordination and overseeing the implementation of our country's environmental and forestry policies and programs. The objectives of the Ministry are well supported by a set of legislative and regulatory measures, aimed at the preservation, conservation and protection of the environment. The policy decisions of the Ministry are being implemented at the State level by the State Environment Departments, State Pollution Control Boards, Pollution Control Committees in respect of Union Territories, State Urban Development Departments, Urban Local Bodies, etc. They have also taken into consideration the alarming health hazards being caused on account of increasing pollution level. They have initiated the National Carbonaceous Aerosols Programme (NCAP), which aims to enhance the understanding of the role of carbonaceous aerosols on climate change, to prepare an inventory of black carbon emissions in the country and to assess its impacts on glacier melting. The science plan for the "Black Carbon Research Initiative-National Carbonaceous Aerosols Programme (NCAP)" was launched in March 2011 under the Indian Network for Climate Change Assessment (INCCA) which was launched on October 14, 2009 by this Ministry. In order to prevent and control air pollution, the major steps taken by Government inter alia includes notification of National Ambient Air Quality Standards, formulation of environmental regulations / statutes; setting up of monitoring network for assessment of ambient air quality; introduction of cleaner / alternate fuels like gaseous fuel (CNG, LPG etc.), ethanol blending; promotion of cleaner production processes; launching of National Air Quality index; universalization of BS-IV by 2017; leapfrogging from BS-IV to BS-VI fuel standards by 1st April, 2020; comprehensive amendments to various Waste Management

Rules and notification of Construction and Demolition Waste Management Rules; banning of burning of leaves, biomass, municipal solid waste; promotion of public transport and network of metro, e-rickshaws, promotion of carpooling; Pollution Under Control Certificate, lane discipline, vehicle maintenance, etc. They have also given the statistics of implementation of their policies in Delhi, Kolkata, Mumbai and Chennai and other states and it was extended to entire country from April 2017 for 2, 3 & 4 wheelers. The Ministry of Road Transport & Highways has issued Notification for leapfrogging directly to BS-VI emission standards for all categories of new vehicles (2, 3 & 4-Wheelers) from 01.04.2020. The 2 and 3 wheelers were required to conform to Bharat Stage II norms from 1.4.2005 all over the country and Bharat Stage III norms preferably from 1.4.2008 but not later than 2010. As part of the implementation of BS norms, corrective steps are required to be taken with respect to augmentation of technology of internal combustion engine during manufacturing of vehicles and improvement in fuel quality standards. They also given the number of steps taken by them for establishing Ambient Air Quality Stations under the National Air Quality Monitoring Programme (NAMP) and a standards provided by the CPCB for pollution related parameters. The Ministry had proposed to launch a National Clean Air Programme (NCAP) which inter-alia includes components as augmentation of air quality monitoring network across the country including in rural areas, air quality management plan for 100 non-attainment cities, extensive plantation drive, and national emission inventory. They have identified the source of pollution and giving necessary directions for curbing the pollution. They also given the way forward for to mitigating the situation and scrupulously monitoring the

same, as their main motto is to make India, pollution free. They prayed for passing appropriate orders issuing necessary directions.

31. The applicant filed common rejoinder to the counters filed Respondents No.1 to 3, 5, 6 & 9, more or less reiterating the contentions raised by them in the application and also various policies of Government and the directions issued by the Hon'ble Supreme Court in *M.C. Mehta's* case and also relied on Dr. Buharilal's Committee report on these aspects. They also mentioned about the ill effects of Euro - VI on maintaining the standard. They also reiterated the non-implementation of the directions given by the Hon'ble High Court of Karnataka in this regard. They have projected the inaction on the part of the State of Karnataka and its Transport authorities in not taking steps to implement the directions of the Hon'ble High Court as well as Hon'ble Supreme Court.

32. After admitting the matter, this Tribunal had passed several orders giving directions to the authorities to submit the report in respect of steps taken by them to implement the Clean and Green Fuel policy.

33. As per order dated 24.09.2020, after considering the pleadings and also the stage of implementation of Clean and Green Fuel policy, this Tribunal had directed the BMTC as well as the State of Karnataka to come with a proper action for changing the old vehicles in a phased manner as directed by the Principal Bench of National Green Tribunal in *Vardhaman Kaushik's* case with Clean and Green Fuel technology.

34. Again the matter was taken up on 16.07.2021, and on that date, this Tribunal had considered the order passed on 24.09.2020, extracted in Para

(1) of the order and also considered the reply affidavit dated 14.07.2021, e-
filed and received on 15.07.2021 submitted by the 3rd Respondent to the
written submissions filed by the applicant dated 27.05.2021 which was
extracted in Para (4) of the order which reads as follows:-

*“The Third Respondent in the above case begs to file the
following reply to the written submissions of the Applicant
which were filed on 27-05-2021 :-*

1. The above petition is filed during the year 2016. During the year 2016 BS-III emission norms were prevailing. It is submitted that having regard to emission norms which were prevailing then, the above petition is filed.
2. That BS-IV emission norms are implemented by Central Government as per the provisions of Motor Vehicle Act from 01-04-2017. That thereafter from 1st April 2020, BS-VI norms are implemented. The emission standards which are prescribed for diesel buses from BS-I standard to BS-VI standard are as follows :

Norms	NOx	CO	HC	PM
Bharat Stage I	8.0	4.5	1.1	0.36
Bharat Stage II	7.0	4.0	1.1	0.15
Bharat Stage III	5.0	2.1	0.66	0.10
Bharat Stage IV	3.5	1.5	0.46	0.02
Bharat Stage V	2.0	1.5	0.46	0.02
Bharat Stage VI	0.40	1.5	0.13	0.01

3. That the emission norms for BS-VI CNG and diesel buses are as follows :

Emission	UOM	BS4		BS6		% reduction in BS6 diesel emissions from BS4
		Diesel	CNG	Diesel	CNG	
CO	(gkWh)	1.5	1.5	1.5	1.5	No change
HC	(gkWh)	0.46		0.13		72% reduction from BS4
NMHC	(gkWh)		0.55		0.16	
NOX	(gkWh)	3.50	3.50	0.40	0.46	89% reduction from BS4

CH4	gkWh	1.1	0.50	
PM Mass	gkWh	0.02 0.03	0.01 0.01	5-% reduction from BS4

4. This respondent herewith producing the e-mail communication dated 21-06-2021 sent by the Sales Manager of M/s.Ashok Leyland, who are the manufacturers of bus chasis. A detailed emission norms are furnished by them in comparison to BS-IV and BS-VI vehicles with reference to diesel and CNG. The emission norms prescribed for the diesel vehicles and CNG vehicles for BS-VI make, makes it clear that the diesel vehicles are more environmental friendly than the CNG BS-VI norms vehicles. It is submitted that in view of the emission norms prescribed for BS-VI make diesel buses are better in all respects when compared to BS-VI CNG buses.
5. It is submitted that this Hon'ble Court was pleased to pass an order dated 12-01-2017 permitting this respondent to purchase diesel vehicles of BS-IV make. This Hon'ble Court was pleased to observe referring to judgment of Supreme Court referring to MC Mehta's case as follows :
"Learned Counsel also submitted that even the Hon'ble Supreme Court in M.C.Mehta Vs. Union of India ((2002) 4 SCC 356) though found that the analysis emphasizes the need for change to non liquid fuel like CNG or LPG so as to improve the air quality in this country, it was also fund that the CNG vehicles are 15 times better them Euro II diesel vehicles and only Euro IV diesel vehicles are comparable to CNG vehicles and in such circumstances, permission be granted to purchase the BS IV norm buses. It was also submitted that the diesel buses to be purchased are for plying in the State outside the Bengaluru city and those buses would enter the city of Bengaluru only to drop and take the passengers from the Bus Stand".
6. The submissions made by the learned Counsel appearing for the applicant is also noted in the said order dated 12-01-2017, which is as follows :
"Learned Counsel also argued that the quality of CNG fuel now available in the market has improved compared with the CNG available at the time when the Hon'ble Supreme Court considered the issue in M.C.Mehta Vs Union of India ((2002) 4 SC 356) case and at present the efficiency of CNG fuel and the CNG vehicles cannot be compared to the Euro IV vehicles and they could only be compared to only Ero VI norm buses and in such circumstances, permission may be granted and even if permission is to be granted, necessary restriction be imposed."
7. Under the above circumstances the applicant himself has maintained that the emission of BS-VI vehicles are comparable to CNG buses. The diesel

BS-VI are more environmental friendly in the matter of emission than the CNG buses. The applicant having made a statement which is noted by this Hon'ble Court in order dated 12-01-2017 cannot contend now that only CNG buses should be operated in Bangalore City.

8. This respondent has submitted replacement plan to replace all the 10 years old vehicles which are of BS-I to BS-III make by BS-VI make vehicles. In the event permission is granted all the 10 years old vehicles will be replaced by BS-VI vehicles which will reduce the pollution to a larger extent.
9. With reference to para 2 to 2.2, it is submitted that the observations made by this Hon'ble Court that the grant of permission to purchase diesel buses will not enable this respondent to contend that they need not switch over to CNG buses was the observation made by this Hon'ble Court having regard to the fact that the old buses of BS-I, BS-II and BS-III was sought to be replaced by purchasing BS-IV make buses. After the orders of this Hon'ble Court, from 01-02-2020, BS-VI pollution norms are introduced. The emission standards of BS-VI norm diesel buses is comparable with emission standards for BS-VI CNG buses. Infact the diesel BS-VI buses are better environment friendly than the CNG buses. Therefore the said observation will not entitle the applicant to contend that CNG buses alone should be operated.
10. With reference to para 3, it is submitted that the application was filed by the respondents to purchase in all 3,672 BS-IV norm compliance buses by the State Corporation. The statement of the applicant that the respondents have purchased 1,158 more BS-IV buses on the plea that only 1000 buses were allowed for being purchased by this Hon' le Tribunal on 12-01-2017 is not a correct statement. This respondent in compliance with the order of this Hon'ble Tribunal permission was sought for to purchase 2,672 BS-IV norm compliance buses by the State Corporation. Out of which this respondent corporation (BMTC) has purchased 2,158 buses as stated in para 4 of the affidavit. The plea that this respondent has committed contempt of this Hon'ble Court and violated the interim order is not a correct statement made by the applicant.
11. With reference to para 4, it is submitted that this respondent has given correct figures that as on date of filing of affidavit 2,813 BS-III make buses were available in BMTC fleet and the scrapping plan adopted by BMTC is to scrap the buses after they run 8.5 lakhs kilometers. The applicant cannot make any grievance about said scrapping plan. BS-IV norm buses are prescribed for registration from 01-04-2017 and BS-IV fuel was introduced from 01-04-2017. The respondents have not purchased any vehicles after 01-04-2010 which are of make of BS-I, BS-II and BS-III.
12. With reference to para 4.1, it is submitted that no fresh registration of BS-III buses are made by the transport department of Karnataka after 01-04-

2017 and after 01-04-2020 only buses which are of BS-VI make are registered by the transport department which were purchased as permitted by this Hon'ble Tribunal. The question of registration of BS-III buses after the said dates do not arise at all and this respondent is also not purchasing any BS-III buses and therefore the question of registration of buses will not arise at all.

13. With reference to para 4.2, it is submitted that the buses used for public transportation have been mentioned correctly. The BMTC is not operating any buses by taking on lease. Efforts were made to procure electrical buses on hire basis under FAME-I scheme promogulated by Central Government. But the efforts have not been fruitful for various reasons. The Central Government has promogulated FAME-II scheme, which enables the State Road Transport Corporation to avail incentives to hire electrical buses. The proposal to hire 300 electrical buses is in the process of finalization. 90 electrical buses are sought to be introduced under Smart City Program of the Central Government. Letter of Award dated 05-02-2021 is issued to NTPC Vidyut Vyapar Nigam Limited, New Delhi to procure 90 electrical buses on hire basis. The said NTPC Vidyut Vyapar Nigam Limited, New Delhi has to execute the agreement for providing vehicles. The requirement of executing agreement is pending due to lock-downs imposed in State of Karnataka due to covid-19 (second wave). BMTC is not owning any trucks. That in M.C.Mehta case the directions were issued to reduce the operation of diesel buses having regard to emission norms which were prevailing at the given point of time. Now from 01-04-2020 BS-VI norms are introduced. These norms are fuel neutral and so far as emissions are concerned the BS-VI diesel vehicles are more environmental friendly than CNG buses. Infact the burning of CNG produces heat and it also emits many micro particles which are more dangerous to health.
14. With reference to para 4.3, it is submitted that the applicant appears to be more interested to help the producers of Retrofits. Fixing of retrofits in the diesel buses to use CNG is not safe either for vehicle and also for the public. It is submitted that the retrofits which were operated in other parts of the Country have resulted in fire hazards. It also leads to leakage of CNG. The diesel engine cannot be operated by using CNG by fixing the Retrofits. The design of the diesel engine do not permit the safe use of CNG as a fuel in the place of the diesel. Fixing of retrofits to operate diesel buses. More than 94% of the diesel buses are operated by all the State Road Transport Corporations in India.
15. With reference to para 4.4, it is submitted that no action appears to have been taken on the report of the committee appointed to suggest the auto fuel policy. The recommendations furnished by the committee were required to be implemented till 2025 on the view that the BS-VI norms

will be brought into force in the year 2025. The oil companies of Central Government have started supply BS-IV fuel for being used by vehicles 01-04-2017. It is submitted that from 01-04-2020 BS-VI emission norms are introduced and these norms are based on the neutrality of all the fuels i.e. the emission which will be produced by any one of the fuel will be on par with on other fuel. It is submitted that the committee suggested the fixing of devices for catalistic treatment of the gases which are emitted at the exhaust mouth of the vehicle. The committee did not suggest that the retrofits must be fixed to use CNG as fuel in place of diesel. It is submitted that in BS-IV make buses which are operated by the respondent are provided with mechanism of spraying urea at the mouth of the exhaust to convert the gases and to make emission environmental friendly. It is submitted there is nothing like renewal of registration certificate. The registration certificate issued to vehicle continues till the vehicle is scrapped. The respondent are having diesel vehicles which have completed the run of 8.5 lakhs kilo meters. The statement that respondents have continued to renew the registration of vehicles is not correct. The further say of the applicant that these respondents have committed contempt is not correct.

16. With regard to para 4.5, it is submitted that KSRTC is a establishment which caters to the need of travelling public in various cities of Karnataka and it is not operating for catering need of the passengers travelling within the city. The transportation facilities are provided by BMTC for the passengers travelling within Bangalore City and its neighbouring suburbs. The KSRTC only carries the passengers from its main bus stand of Bengaluru to the areas outside Bengaluru who commence journey from Bengaluru or terminate their journey at Bengaluru. All the highways which are leading to other cities from Bengaluru are located at a distance of nearly 4 to 5 kilo meters from Majestic Bus stand. The pick-up points are enroute for going out of city. The KSRTC has also established satellite bus stand in Bangalore City which are on peripheral areas of the City and buses are also operated from Satellite bus stands. The say of the applicant that KSRTC operates buses through Bengaluru and have dozen bus stands for pick-up points and such pick-up points are scattered throughout Bangalore City is not a correct statement made by applicant. The expert committee report of Dr.Bhbure Lal of 01-02-2017 was during the period when BS-III norms of emissions were in force. The operation of KSRTC buses from bus stands to go out of city is highly negligible length of the journey under taken by the bus. The statement that the KSRTC has one dozen bus stands in Bengaluru City is not correct. It has only 3 satellite bus stands in peripheral area of Bengaluru City. The KSRTC buses are not using any of the bus stops of BMTC for pick-up or dropping passengers.

17. With regard to para 5.1, it is submitted that efforts were made to introduce electrical buses. But for various reasons the efforts have failed. There is no infrastructure available in Bengaluru to introduce CNG buses. CNG buses are not environmental friendly they produce more heat and during the pendency of the above proceedings the emission norms have undergone change. At the time when the petition was filed BS-III emission norms were in force. Thereafter BS-IV norms fuel was made available for being used from 01-04-2017. Normally from BS-IV norms the emission standard could have been improved to BS-V norms. But the emission norms were improved from BS-IV norms to BS-VI norms. Under the circumstances the operation of BS-VI norms diesel buses is permissible in law and they also result in drastically reducing the pollution. That apart, the emissions of diesel and CNG BS-VI norms is fuel neutral. There is no difference whatsoever in the emission norms between the said two fuels. Further in diesel buses are more easy to maintain than CNG buses.
18. With regard to para 5.2, it is submitted that directions issued by Karnataka Pollution Control Board (respondent No.4) was the subject matter of consideration by the Hon'ble High Court of Karnataka in W.P.No.39432/2013. The said writ petition is disposed off by Division Bench of Hon'ble High Court of Karnataka by order dated 01-07-2015. Under the circumstances the applicant cannot think of projecting the orders of the Pollution Control Board in the present application.,
19. With regard to para 5.3, 5.4, 5.5 and 5.6, it is submitted that during the pendency of above application, the respondents have replaced BS-I, BS-II and BS-III norms buses by BS-IV norm buses in view of the permission which was granted by this Hon'ble Court by order dated 12-01-2017. The remaining old buses will be replaced by BS-VI norm buses as already submitted by this respondent. Tenders were floated for introducing electrical buses but for various reasons and beyond the control of respondents, the respondents were not able to carry forward the tender process. Now as submitted above work order have been issued for providing of 90 electrical buses and a tender is floated for introducing 300 electrical buses on hire basis as stated above. The collection of taxes by way of sale of fuel is the state subject and this respondents have no say in the matter. The taxes so collected are utilized for public benefit. Various works have been undertaken and implemented in the matter of improvement of traffic flow in Bangalore City and other areas. Various number of over bridges and under bridges are constructed in Bangalore City to reduce pollution at the junctions. The pollution is also reduced when the stoppage of vehicles at the junctions of the road are avoided. Infect long flyovers of few kilometers in length are constructed to facilitate the free flow of vehicles to go out of Bangalore City and by virtue of these

flyovers the emission into the city is also reduced. Under the circumstances the statement of the applicant that steps are not taken to reduce the pollution is incorrect statement. The State Government has also formulated electrical vehicle policy to provide subsidies to purchase electrical vehicles. The assertion that polluted pays principle must be applied to respondent No.1 is only a illusory one.

20. *With regard to para 6, it is submitted that the contentions of the applicant based on Dr.Bhure Lal expert committee and auto fuel policy are not the relevant on which the applicant can maintain the above application as submitted above in view of the enforcement of BS-VI emission norms. It is submitted that an expert committee can be appointed to study the emission of CNG buses and BS-VI norm buses. Such an exercise will result in demonstration that both the fuels are displaying same emissions. The emissions which are tested by the manufacturer of both the fuels is already produced before this Hon'ble Court along with statement of objections. The assertions that BS-VI buses have serious problems in meeting emission norms is not correct. It is submitted the vehicles are now manufactured of BS-VI compliance and the fuels supplied by oil companies is also BS-VI compliance. Under the circumstances the question of having any problem do not arise at all. So far as the directions of Karnataka State Pollution Board are no longer implementable in view of the order of the Hon'ble High Court of Karnataka in W.P.No.39432/2013. The assertion that the Hon'ble Supreme Court has ordered to use CNG and to have retrofits from 2002 is not a correct statement. Those orders related to Delhi only they do not relate to Bangalore City. The applicant cannot make any grievance about the interim application made by respondent to purchase BS-IV norm buses during the year 2017. The defense raised by the respondent is valid in law. The defense raised by respondent is in consonance with the standards of emission prescribed by Motor Vehicles Act and Air (Pollution) Control Act. The entire contention of the applicant with regard to the use of CNG is no longer feasible in view of various difficulties in using CNG and availability of CNG. It is submitted that there are about 80 lakhs vehicles which are in operation in Bangalore City. There are more than 1 lakh commercial vehicles and private buses which operates in Bangalore City. In comparison to the same only 6,512 buses are operated by BMTC. That BMTC is not a polluter of the air. Out of total quantity of emission which emanated by running of 80 lakhs vehicles the share of emission of BMTC is not even 0.09%.*

21. *With reference to para 7, the applicant has stated the proceedings of this Hon'ble Court which are matter of records. The case is pending for the reasons that the case was transferred to Delhi in views of filing of interim application for the reasons that there was no sitting of this Hon' ble*

Tribunal and the case is retransferred from Delhi to this Hon'ble Court. From March, 2020 in view of covid-19 epidemic these respondents has suffered huge loses. The State Government have made grants to pay salaries to its employees. Apart from that the respondents have also raised loans on their properties to meet the recurring day to day expenses. The statement that the buses should be retrofitted to use CNG is not viable contention. That the BS-IV vehicles which are operated are provided with mechanism of spraying urea at the exhaust point of engine which greatly reduces the gases pollution. The KSRTC is not operating 14336 non BS-IV buses in Bangalore City. The further statement that 9,715 buses are operated in Bangalore City by KSRTC is misleading statement. No trucks are operated by respondents and there are no buses which are operated on lease basis. The respondents will replace all BS-I to BS-III vehicles with BS-VI norms vehicles which is a clean fuel and comparable with CNG the replacement of the BS-I to BS-III norm buses by BS-IV buses have reduced the pollution and this respondent is acting within frame work of law to replace the old vehicles by BS-VI norm vehicles. Infact the applicant himself has stated before this Hon'ble Court that BS-VI norms buses are comparable to CNG buses which is also recorded by this Hon'ble Court in the order dated 12-01-2017. Under the circumstances the various contentions which are advanced by the applicant are all liable to be rejected.

22. *With reference to para 8, it appears that the applicant is set-up only to plead and canvas the pleas of fixing retrofits to operate the diesel engine buses with CNG. Such adaptation is dangerous to the public safety. The burning of CNG will increase the heat of atmosphere apart from emitting may micro pollutants which are hazardous to the health. The applicant is responsible in delay in the replacement of old buses with new buses which are of clean fuel. The submissions that large number of children in Bangalore City are suffering from asthma is far from truth. There is no such health condition existing in Bangalore as on today. The applicant is relying upon some reports which are not scientifically correct. The statement that nearly 9 out of 10 children in Bangalore are affected in their lungs is totally a misleading statement. The State Government is collecting taxes on fuel, it is spending larger amount in providing infrastructure like roads and other required infrastructure to reduce the pollution.*

23. *Under the circumstances the above application may please be dismissed."*

35. After considering the submissions made by the parties, this Tribunal had directed the State of Karnataka as well as the BMTC to furnish a concrete action plan which envisaged for the purpose of replacing the old diesel vehicles to new Clean and Green Fuel vehicles with shorter timeline, but they have not come with any concrete policy. Thereafter, this Tribunal had reiterated the responsibility of the State Government to provide clean environment as contemplated under Article 48 A of the Constitution of India and the Right to Life included right to get clean air, as contemplated under Article 21 of the Constitution of India and the State Government cannot shirk their responsibility in implementing these policies. This Tribunal had also directed the State of Karnataka, Transport Department, BMTC, CPCB and SPCB to come with the further report regarding action taken by them to implement the Central Government Policy of Clean and Green Fuel policy in the State of Karnataka, especially in Bangalore city in view of the directions given by the Principal Bench of National Green Tribunal, New Delhi dealing with critically polluted cities in Original Application No.681 of 2018 (PB).

36. Thereafter, the matter was taken up on 03.09.2021, and on that date, after considering the order passed on 16.07.2021 which was extracted in Para (1) of the order, this Tribunal had considered the Joint report on action taken to implement the Central Government Policy of Clean and Green Fuel, Bangalore dated 24.08.2021, submitted by the CPCB, extracted in Para (3) of the order which reads as follows:-

"Joint Report on Action Taken to Implement the Central Government Policy of Clean and Green Fuel in Bengaluru, Karnataka

1.0 Background

In Original Application No. 183 of 2016 (SZ) in the matter of Sh Vinay Shivanand Naik Vs State of Karnataka & Ors. Hon'ble NGT, Southern

Zone, Chennai issued directions to Bengaluru Metropolitan Transport Corporation (BMTc), State of Karnataka to come up with an action plan to implement the clean and green fuel policy. The Hon'ble Tribunal also referred to the earlier order of Vardhaman Kaushik Case before Hon'ble NGT, Principal Bench, Delhi regarding directions to the Delhi Government to change all the old public transport vehicles to curb the pollution on account of use of old motor vehicle in the area.

2.0 NGT Directions

Hon'ble NGT vide order dated 16.07.2021 mentioned that "11. If the Government of Karnataka as well as the Bengaluru Metropolitan Transport Corporation (BMTc) can furnish a concrete action plan, which they envisaged for the purpose of replacing the old diesel vehicles to new green and clean fuel vehicles with shorter time line, then this Tribunal can accept their action plan and pass appropriate orders giving direction to implement the same within the timeline undertaking by them or to be fixed by this Tribunal.

15. The State of Karnataka, Transport Department and also the Bengaluru Metropolitan Transport Corporation (BMTc) are directed to come with an action plan for replacing the old vehicles with new environment friendly vehicles with shorter timeline in the Transport Corporation as well as in the Bangalore City.

16. The Central Pollution Control Board as well as the Karnataka State Pollution Control Board are also directed to come with further reports regarding the action taken by them for implementing the Central Government Policy of clean and green fuel in the State of Karnataka, especially in Bangalore City and also the direction given by the National Green Tribunal, Principal Bench, New Delhi in this regard."

Copy of Hon'ble NGT Order appended as **Annexure I**.

3.0 Action Taken

In compliance to the aforesaid order of Hon'ble NGT dated 16.07.2021, CPCB, RD, Bengaluru conducted a meeting through video conference on 10.08.2021 to discuss the status of implementation of the Hon'ble NGT directions with Bengaluru Metropolitan Transport Corporation (BMTc) and Karnataka State Pollution Control Board (KSPCB). BMTc explained the status of compliance of the Hon'ble NGT directions in the aforesaid order dated 16.07.2021. In the meeting, Karnataka SPCB was requested to arrange for the action plan with timelines for implementation of Central Government Policy of Clean and Green Fuel in Bengaluru, Karnataka.

CPCB, RD, Bengaluru had a meeting to discuss the Action Plan with timelines submitted by BMTc on 17.08.2021 at Parisara Bhawan, Karnataka State Pollution Control Board, Head Quarter, Bengaluru.

4.0 Status of Compliance

Bengaluru Metropolitan Transport Corporation (BMTc) vide letter no. BMTc/CO/ME/404/2020-21 dated 16.08.2021. It has been mentioned in

the report that out of total 6512 buses, 3797 buses are of BSIV make. Whereas, remaining 2715 BS III buses will be replaced with Electrical and BSVI buses by 2024. The timelines for replacing 2715 BSIII buses as given by BMTC are provided below;

S.No	Number of Old Vehicles to be replaced with Electric and BS VI buses	Time line	Remarks
1.	1033 BSIII buses	31.03.2022	All the BS III buses will be replaced by Electric and BS VI make buses only if funds are provided by Government of Karnataka for purchase of new buses and vehicles ply & assured kilometers are achieved.
2.	550 BSIII buses	31.03.2023	
3.	650 BSIII buses	31.03.2024	
4.	482 BSIII buses	31.03.2024	

It was also mentioned that, out of 3797 BS IV buses, 2158 BS IV buses were newly purchased from 2017 onwards. Further, remaining 1639 old BS IV vehicles will be scrapped in phased manner as per the scrapping policy of Government of Karnataka until the draft of the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021 are notified.

BMTC has also mentioned about the emission checking procedures for the vehicles followed to keep a check on the emission levels below the permissible limit. Copy of the report provided by BMTC is appended as **Annexure II**.

5.0 Concluding Remarks

The timelines for replacing the BS III vehicles to BS VI vehicles and scrappage of old vehicles provided by BMTC may be considered by the Hon’ble Tribunal. The emission standards for Bharat Stage VI (BS VI) for the vehicles manufactured on or after 1st April 2020 notified by the Ministry of Road Transport and Highways vide G.S.R. 889(E) dated 16th September, 2016 will be in place in Bengaluru, Karnataka with the induction of BS VI vehicles as agreed by BMTC.”

37. This Tribunal had also considered the rejoinder to the reply submitted by the applicant dated 19.08.2021, extracted in Para (4) of the order which reads as follows:-

“Rejoinder to the Reply Dated 15.07.2021 filed by the Respondent No.3, adopted by respondents No.2, 5 & 6 to the written submission of the applicant dated 27.05.2021.

The applicant most respectfully states as follows:

1) At the outset, it is submitted that the contents of the reply dated 15.07.2021 (Respondent No.3's reply) to the written submissions dated 27.05.2021 filed by the applicant (“Written submissions”) are much the same as the Statement of Objections dated 05.01.2021 filed by the respondent no.3. Respondent Nos. 2, 5 and 6 have adopted respondent No.3's reply.

2) It is submitted that the respondents at Paragraph No.2, 3, 4, 6, 7, 8, 9, 13, 17 and 20 of the Respondent No.3's reply have baselessly contended that the arrival of BS-VI negates all previous orders and directions, inter alia, issued by this Hon'ble Tribunal and the KSPCB.

3.) It is pertinent to note that the orders passed by KSPCB remains in effect and the Respondents are in contempt for not complying with the statutory orders/ directions.

4.) It is submitted that neither Dr. Bhure Lal's EPCA report nor the Auto Fuel Policy Expert Committee Report is lessened or negated by the introduction of BS-VI.

5.) At Paragraph 4 of Respondent No.3's reply, it is stated that the emission norms prescribed for BS-VI make diesel buses better in all respects when compared to BS-VI CNG buses, however, the Government impaneled expert committees along with notable domestic and international NGOs have disagreed to this inter alia on the ground that the norms prescribed for BS-VI are not maintained once in service.

6.) Additionally, a long-recognized Indian NGO in the air pollution field issued a report this year named “Policy Brief 2020-21 BS-VI leapfrog what more to do” explaining the serious issues with BS VI diesels maintaining certified emissions levels. Relevant portions of the report are as follows:

"Following the Volkswagen emissions fraud that shocked the world in 2015 and also sent ripples in India that led to the National Green Tribunal seeking penal action on the company. More assessment globally has shown how well known brands of diesel vehicles of reputed companies were found to be emitting several times higher NOx in the real world compared to the emissions measured and reported during certification. An assessment of emissions test results by the International Council on Clean Transportation

(ICCT) in Europe found that real-world emissions from as much as 90 per cent of Euro VI vehicles exceeded standards by up to 12 times.

India's leapfrog to BS-VI emissions standards and its nationwide introduction on schedule despite the pandemic disruption is commendable. But global experience has also shown that only introduction of these new standards will not be adequate. They will have to be implemented with stronger regulatory testing of real-world driving emissions to maximize emissions and health gains. If not addressed, this can create serious risks of uncontrolled emissions. India therefore needs to adopt the entire regulatory framework, including advanced testing procedures for monitoring real world emissions, WLTC and WLTP for type-approval of vehicles, in-service conformity and compliance strategies, emission disclosure and independent market surveillance among others. This will encourage industry to optimize the integration of overall engine technology approaches and emissions control systems for best results and improved on-road performance.

This trend is likely to continue to fan new wave of dieselization in India. This has implications for public health. The ICCT study has shown that exhaust from only on-road diesel vehicles is responsible for nearly half of the premature deaths worldwide. And two thirds of this is in India, France, Germany and Italy. Among the 100 major urban centers assessed for deaths related to the transport sector, Delhi ranks sixth. India needs to tame dieselization and ensure very stringent monitoring of real-world emissions and in service compliance."

A copy of this report is produced herewith as "Document No.1".

3.) The Respondents reiterate the same arguments that have been discredited for the last five years. Incorrect claims of better BS VI diesel emissions than CNG, alleged expert references to justify same by ignoring prescribed versus actual emissions levels, incorrect dissertations of BS-III norms in effect for Respondent 2 (KSRTC) and 3 (BMTC) in 2016. Per the Auto Fuel policy, BS-IV took effect in April 2010 for all vehicles registered in Bengaluru which are all the buses of Respondent No. 2 KSRTC and Respondent 3 BMTC, the claim that CNG being dangerous, unavailable and absent of infrastructure is false and contrary to the material on record.

4.) The Auto Fuel Policy Report of the Expert Committee, Government of India, dated May 2014 (petroleum.nic.in/docs/autopol.pdf) considered representation and input from all relevant departments, manufacturers, academia and NGO's. The AFP Report and the reports of Dr. Bhure Lal's EPCA were relied on by the Petitioner on technical issues. The Application Prayer specifically asks for non-engine-modifying retrofits to eliminate two potential retrofit problems; a) No confusion that diesel buses should NOT be retrofitted to CNG. It is submitted that the Diesel engines are compression ignited with no spark plugs, while CNG is a spark ignited engine requiring spark plugs. It is

impossible to retrofit buses from diesel to CNG without engine modifications - thus, non-engine-modifying retrofits to eliminate any CNG retrofit confusion were incorporated into the Prayer; b) No new Type Approval is required on a non engine-modifying retrofit eliminating inordinate delay in implementation. Further, the Respondents have excluded trucks and leased route buses by stating "we have no trucks" and there are "no leased buses". Leased routes are private buses operating on public RTC routes per the terms of a fee based lease license from the State. There are thousands of buses in this category and many government owned diesel trucks within the State's many agencies that all fall under Respondent 1's responsibility.

5.) In Paragraph 14 of the Respondent No.3's reply, it is stated that that the applicant appears to be more interested to help the producers of CNG Retrofits. This is specifically denied by the Applicant. It is submitted that the Applicant does not have any interest whatsoever with regard to the producers of Retrofits and the Application Prayer does not advocate CNG retrofits in any way.

6.) In Paragraph 15 the Respondents state "the committee did not suggest that the retrofits must be fixed to use CNG as fuel in place of diesel". The Applicant agrees and must point out that the preferred action would be orders for the Respondents to scrap their roughly 14,500 non-BS-IV buses (Reference: RTI numbers) and immediately replace them all with CNG, LPG and | or electric buses in a few months and not use retrofits at all. Since that "scrapping action" is not feasible on several levels, and would cause political and economic disruption, the Applicant adopted for its Prayer the recommended and proven "Retrofit, Refuel and Replace" formula used worldwide for reducing air pollution from diesel vehicles during a bridge or transition to new standards and emissions norms. By using non-engine-modifying retrofits as a bridge from diesel vehicles to new non-liquid, clean fuel vehicles, the public is not punished with disruption of service from scrapping orders and air pollution is meaningfully reduced during the long replacement cycle. A relevant portion of the Auto Fuel Policy Report of the Expert Committee on page xvii states as follows:

"Once an area is switched over entirely to BS IV fuel, the existing stock of commercial vehicles, especially heavy duty diesel units, should be directed to compulsorily get after-treatment devices... retro-fitted within two years, failing which their licence should not be renewed. The point has repeatedly been made in the course of the deliberations of the Committee that the vexed issue of pollutant stress on air quality and health cannot be addressed solely through improving fuel quality and emission norms."

7.) It is submitted that the most urban bus fleets worldwide use CNG, LPG and electric buses due to concern over diesel emissions, including Euro 6 diesels. CNG has a long history of safety and maintaining their in-use emissions levels over time The Environmental Pollution Control Authority

(EPCA) is a Central Government constituted expert committee, chaired by Dr. Bhure Lal, formed in compliance with the Hon'ble Supreme Court's order dated January 07, 1998 in WP 13029/1985. The Ministry of Environment, Forests and Climate Change in 2016 re-constituted the EPCA, once again chaired by Dr. Bhure Lal, in compliance with the Hon'ble Supreme Court's order dated April 30, 2016. The reformation of this committee in 2016 and its findings in 2017 are current and not subject to the false and unfounded accusations of the Respondent that the Petition's data are outdated and irrelevant. The relevant portions of the Dr. Bhure Lal Committee Report dated February 01, 2017 are extracted hereinbelow. Copy of the report dated February 01, 2017 available at [http://www.epca.org.in/EPCA Reports 1999 1917/Reportno.65.pdf](http://www.epca.org.in/EPCA%20Reports%201999%20to%202017/Reportno.65.pdf)):

"4. Health impact of air pollution: Delhi is paying a very high price for its polluted air. Several global and national studies have already proven severe health risks from air pollution; a number of studies are also available in Delhi to provide local evidence.

"... This is not just Delhi's problem. As per the Global Burden of Disease (GBD) report released in 2013, air pollution is the fifth largest killer in India. The World Health Organization (WHO) has classified air pollution, including diesel emissions, as a Class 1 carcinogen, which is based on detailed and comprehensive evidence from global studies. Automobile companies contest this data, saying that this study, which confirms diesel particulates as carcinogen is based on older vehicle and emission technology. However, this is not the case as the study establishes the carcinogenicity of diesel based on detailed global technologies and evidence. Also, as global evidence shows, modern diesel vehicles, Euro 6 have serious problems in meeting emission norms on roads".

"c. Adopting a regional approach for common air-shed: Over time, science has made it clear that local pollution cannot be solved without addressing the larger regional pollution."

A study by the Health Effects Institute, published recently in Environmental Health Perspectives, has found that particles from coal and diesel are more harmful than windblown dust, as they can lead to an increase in ischemic heart disease-related deaths. This suggests that we must prioritise the more harmful particulates for action". "The study has observed that vehicles are the most consistent and dominant source of pollution... To get the average levels down, therefore, the focus must remain on consistent sources such as vehicles".

"Transition to CNG... Dis-incentivize diesel because of toxicity and higher emissions... Make PUC stringent for in-use vehicles".

"Augmenting public transport, last-mile connectivity and car restraint... improvement in bus numbers and service".

8.) From the foregoing submissions, it is apparent that the claims and objections of the Respondents are baseless. The Respondents refuse to use CNG buses, yet the Karnataka Transport Ministry and KSPCB urges the public to convert their vehicles to CNG to reduce air pollution. That is precisely why the Hon'ble Supreme Court has held that "to begin with Government vehicles and public undertaking vehicles including public transport vehicles". It is submitted that it is the duty of the State to lead by example. The Auto Fuel Policy and The Motor Vehicle Act establish the place of registration as the basis for emissions norms enforcement, i.e. both KSRTC and BMTC registers their buses in Bengaluru, therefore they both fall under the major metro standards that took effect in April 2010.

9.) Although all the buses of Respondent No.2 are registered in Bengaluru, Respondent 2 (KSRTC) claims exemption from BS IV requirement. Respondent No.2' largest terminal is in central Bengaluru and there are a dozen more terminals / stands / pick up points within the Bengaluru. It is humbly submitted that since KSRTC buses are registered in Bengaluru, and therefore fall under major metro standards per the Motor Vehicle Act, they cannot be exempted from the major metro standards.

10.) In Paragraph 18 of the Respondents reply, the Respondents claim res judicata regarding this Application based upon orders of the Hon'ble High Court of Karnataka in the Suo Moto WP No. 39432 / 2013. They state, "It is submitted that directions issued by Karnataka Pollution Control Board (respondent No.4) was the subject matter of consideration by the Hon'ble High Court of Karnataka in W.P.No.39432/2013. The said writ petition is disposed off by Division Bench of Hon'ble High Court of Karnataka by order dated 01-07- 2015. Under the circumstances the applicant cannot think of projecting the orders of the Pollution Control Board in the present application." In Paragraph 10 of their Objections of January 2017, the Respondents refer to that High Court Order; "and after hearing the parties, the said writ petition was disposed of by issuing directions to comply with the directions of the Pollution Control Board..." In Paragraph 44 of the same Objections; "The directions issued by the Hon'ble High Court of Karnataka are to be carried out by the State Government and its agencies". The Respondents, be it the road transport corporations or the State Government or any of its agencies or instrumentalities, must comply with Respondent No. 4's (KSPCB) statutory directives. In KSPCB's Reply to this Application, the above referenced directions were provided. They contain: Page 5 and 18; "To direct BMTC & KSRTC to convert to green fuel like CNG and draw a road map for implementation." Page 11; "The Managing Directors of BMTC and KSRTC were requested vide this office Letter No. CT/ENF 3/PR-582/13-14 dt.2-9-2014 to use CNG fuel after the regular supply of the same to the Bangalore City." (Emphasis Supplied). It is humbly submitted that the availability of CNG has been a non-issue since a

dedicated gas pipeline has been built from Dabhol to Bengaluru and this is confirmed in great detail in the Counter Affidavit dated April 11, 2017 of Respondent No. 11, GAIL Gas Limited. In fact, pursuant to the same suo moto public interest litigation initiated by the High Court of Karnataka, BMTC submitted to the Hon'ble High Court that "phased conversion of diesel-powered public transport vehicles to CNG vehicles is taken up seriously" ... "and it shall consider all the aspects of the matter of replacement of the entire fleet of buses in a phased manner and shall make an action plan with the timelines for the phased conversion". KSPCB has not withdrawn or rescinded its statutory directives; the Hon'ble High Court of Karnataka has not rescinded its order to follow the directions of KSPCB; Six years later, none of the Respondent's promises have been realized nor has there been any compliance with the KSPCB statutory Order.

11.) In Paragraphs 10 & 11 of the Respondents reply, the Respondent No.3 indicate numbers that do not add up. The RTI dated 27.05.2019 response received from BMTC stated that BMTC had 2,535 BS-III buses. However, in paragraph 11, BMTC lists 2,813 BS-III diesel buses. Additionally, in the same paragraph, the Respondents state no BS-I, BS-II or BS-III buses have been purchased since April 2010. The BS-III count grew by 278 buses in 2 years and that does not count any BS-III buses being scrapped as they claim.

12.) In Paragraph 5 of Respondents reply, (BMTC) states that this Hon'ble Tribunal vide order dated 12.01.2017 permitted BMTC to purchase diesel vehicles of BS-IV make. This submission materially misrepresents the Order dated 12.01.2017 passed by this Hon'ble Tribunal while making an attempt to justify buying over twice the BS-IV buses contrary to this Hon'ble Tribunal's Order. The Order dated 12.01.2017 only permitted purchase of BS-IV buses to Karnataka State Road Transport Corporation subsidiaries for use outside of Bengaluru. BMTC was allowed to purchase 1,000 buses because of their undocumented claims that grant funds were expiring and would be permanently lost and it was an emergency. It is pertinent to note that no tenders for like equipped CNG buses or any CNG buses whatsoever were presented to show why BS-IV buses should be allowed instead of CNG. The Order specifically stated "It is made clear that the permission granted shall not be taken a ground to contend later that they need not switch over to CNG buses" which is the question to be decided in the main application. Similarly, before purchasing any additional buses, in addition to the BS IV norm buses now permitted, "BMTC shall take the Tribunal into confidence and satisfy why the CNG vehicles are not being chosen." The Respondents fails to offer any reasonable explanation as to why CNG vehicles are not being chosen. BMTC rejected the Gail Gas offer to make up the difference, if any, in pricing between CNG and diesel. Yet, without permission or consultation, BMTC has purchased BS-IV buses and BS-VI buses. The applicant humbly submits that Respondent 3, BMTC, is in

contempt regarding this Hon'ble Tribunal's Orders and both Respondent 2 and Respondent 3 are in contempt of the KSPCB statutory orders. Thus, this Hon'ble Tribunal may be pleased proceed to pass appropriate directions against the said respondents."

38. This Tribunal had also considered the affidavit submitted by the Additional Commissioner for Transport (E&EG), State of Karnataka dated 25.08.2021, e-filed on 01.09.2021, extracted in Para (5) of the order which reads as follows:-

"AFFIDAVIT

I, J. Purushotham S/o K.N.Junjappa aged 49 years presently working as Additional commissioner for Transport (E & EG), do hereby solemnly affirm and swear on oath as follows:

1). I have been authorized by the State Government to file this affidavit on behalf of the State. I know the facts of this case being the Addl. Commissioner for Transport (Environment & e-governance) for the Transport Department. Hence, I am filing this affidavit on behalf of the State.

2). I submit that the State Government has introduced various policies to promote and for implementation of Green Fuel to reduce the air pollution in Bangalore city and in the entire State by encouraging usage of Electric Vehicles by providing concession phase-wise.

3). Government of Karnataka issued notification dated 31.03.2016 in exercise of powers conferred by Sub-Section (1) of Section 16 of the Karnataka Motor Vehicle Taxation Act, 1957 (Karnataka Act 35 of 1957). In the said notification the Government exempts from payment of taxes on all electric vehicles i.e., Transport and non-Transport Vehicles including e-rickshaws and e-carts etc., with effect from 01.04.2016 in the entire state of Karnataka. The copy of the said Notification dated 31.03.2016 is produced herewith and marked as Annexure-R1.

4). Government of Karnataka announced Karnataka Electric Vehicle and Energy Storage Policy 2017, by providing special tariff and commercially viable rates for installation of Electric Vehicles Charging Stations by excluding duty/tax on electricity tariff for initial period of 5 years from the date of installation and also by providing incentives and concessions to encourage the usage of electric vehicles in the State. The copy of the said Policy is produced herewith and marked as Annexure R2.

5). Further, in the year 2018-19, the State Transport Department entered into an agreement with Bangalore Electricity Supply Company

Limited (for short 'BESCOM') by executing Memorandum of Understanding ('MOU' for short and released Rs. 4.00 crores for installation of 100 AC charging Units and 26 DC Charging Units within Bangalore Metropolitan City. The copies of the G.Os dated 31.08.2018 and 22.02.2019 issued by the Government in connection with the aforesaid matter are produced herewith and marked as Annexures- R3 & R4 respectively.

6). I submit that the State Government issued Circular dated 14.02.2019, by imposing conditions for the purpose of issuance of permits/renewal of permits only if the transport motor vehicles are within 15 years from the date of registration and further such of those permit holders whose transport motor vehicle is 15 years were permitted to replace such old vehicles with the later model vehicles. But, the said circular has been set aside by the Hon'ble High Court of Karnataka by order dated 20.08.2019 passed in W. P. No. 21991/2019(MV) and connected matters on the ground that the State Government is not empowered to issue such circular by imposing condition and also permitted the State Government to frame appropriate rules by invoking sub-section (2) of Section 72 of the Motor Vehicles Act 1988. The copy of the order dated 20.08.2019 is produced herewith and marked as Annexure-R5.

7). I submit that the State Government has made budget provision of Rupees 100 crores to the Bangalore Metropolitan Transport Corporation ('BMTC' for short) for the year 2021-22, as a subsidy combined with the demand incentive to be provided by Government of India, Department of Heavy Industries, for operation of electric buses, under FAME-II Scheme, with an object to reduce the air pollution in Bangalore Metropolitan City,

8). I submit that the State Government introduced Electric Bike Taxi Scheme-2021 to implement clean and green fuel policy in the Bangalore Metropolitan City with an object of reducing the air pollution in the city and promoting environmental friendly solutions. The copy of the Electric Bike Taxi Scheme-2021 is produced herewith and marked as Annexure-R6.

9). I submit that the Central Government has issued Draft Notification dated 12.03.2021 for amending the Central Motor Vehicle Rules, 1989 ('CMV' Rules for short) by inserting Rule 52-A non-renewal of certificates of registration of Government Vehicles owned by the authorities hereunder mentioned after the lapse of 15 years from the date of registration:

- a) Central Government and its Departments
- b) State/Union Territory Government and their Departments.
- c) Local Government Institutions namely, Municipal Corporations or Municipalities or Panchayaths.

d) State Transport Undertakings established under RTC Act, 1950 and Companies Act 1913.

e) Public Sector Undertakings.

f) Autonomous Bodies with Central and State Government.

After finalization of the aforesaid Notification, necessary action will be taken to replace the old vehicles by new vehicles to reduce the emission level. The copy of the draft notification is produced herewith and marked as Annexure-R7.

10). I submit that the Central Government has issued the Draft Notification dated 15.03.2021 for introducing the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules, 2021. After finalization of the Notification necessary action will be taken to implement the same. The said notification is produced herewith and marked as Annexure-R8. In pursuance of the same, the Government has allocated the budget for the year 2021-22 that the "State government will take action to establish and manage Authorized Vehicle Scrapping Facility" in tune with the draft guidelines issued by the Central Government

11). Further it is submitted that in addition to the above schemes implemented by the State Government to reduce the air pollution in Bangalore city and entire Karnataka State. The Bangalore Metropolitan Transport Corporation Respondent No.3 is also filing Affidavit in compliance with the order of the Hon'ble Tribunal dated 16.07.2021 by submitting the action plan for replacing the old vehicles with new environmental friendly vehicles at Bangalore city may kindly be taken into consideration and dispose the application. The copy of the affidavit filed by the BMTC is also produced herewith and marked as Annexure-R9.

I, the deponent do hereby verify and declare that the contents of Paras 1 to 11 are true and correct, Annexures R1 to R9 are true copies of the originals to the best of my knowledge, information and belief."

39. The applicant also filed their written submissions more or less reiterating the allegations made in the application and also the documents produced by him in this regard.

40. Heard the learned Senior Counsel appearing for the applicant and learned counsels appearing for respondents.

41. The learned Senior Counsel appearing for the applicant vehemently argued that in spite of the directions issued by this Tribunal and also by the Hon'ble High Court of Karnataka in the Writ Petition mentioned above and also the direction of the Hon'ble Apex Court in *M.C. Mehta's* case, the State of Karnataka has not implemented the Clean and Green Fuel Policy in the State in its letter and spirit and the pollution level is going up and the vehicular pollution is one of the major sources for pollution in Bangalore city. The learned Senior Counsel had reiterated the suggestions given by them and also the various reports relied on by them and produced by them in support of their case and he wanted this Tribunal to issue appropriate proper directions to make the Bangalore City free from air pollution.

42. On the other hand, the learned counsel appearing for the State of Karnataka and the learned counsel appearing for the BMTC argued that the State of Karnataka and the Transport Corporation are committed to implement the policies of the Central Government and they have taken lot of action to phase out the old diesel vehicles to new generation vehicles i.e. Clean and Green Fuel Vehicles and they also submitted that CNG is not the only method by which the pollution can be curtailed and some of the studies conducted by various scientific organizations shows that BS-VI vehicles are more environment friendly than CNG vehicles and they are taking steps to phase out the old vehicles with new BS-VI vehicles and also electrical vehicles.

43. The learned counsel appearing for the MoEF&CC and CPCB submitted respectively that they are issuing necessary notifications for curtailing the air pollution that is being faced at national level and that is being

monitored by the CPCB and SPCBs. In tune with the directions issued by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and also by the Hon'ble Apex Court, several policy decisions have been taken by the Central Government and it is being implemented by the respective Machineries under the Central Government including the MoEF&CC and CPCB by issuing necessary notifications and directions as required under the Air (Prevention and Control of Pollution) Act, 1981.

44. The learned counsel appearing for the SPCB submitted that they are closely monitoring the serious issue of pollution and necessary directions have already been issued to the respective departments including the Transport Department to phase out the old vehicles with new Clean and Green Fuel vehicles and also by implementing the various Waste Management Rules, which are also the sources contributing air pollution and in case of violations, necessary actions are also being taken by them by issuing directions under Section 31 A of the Air (Prevention and Control of Pollution) Act, 1981. They will strictly implement the rules and directions issued by the MoEF&CC and CPCB and the directions of the National Green Tribunal as well as the Hon'ble Apex Court and Hon'ble High Court of Karnataka in this regard. They are closely monitoring the implementation of these schemes and necessary action will be taken, if it is not properly implemented.

45. The learned counsel appearing for Respondents No.7 & 11 submitted that they are committed to provide necessary infrastructure for supplying CNG for this purpose, as it is the policy of the Ministry of Petroleum and

Natural Gas and they are prepared to provide all necessary support for this purpose. They have provided necessary infrastructure for supplying CNG in the State of Karnataka and also they are providing necessary CNG Fuel filling stations at appropriate places to make available the fuel without any difficulty and they will abide by any conditions imposed by this Tribunal.

46. We have considered the submissions made by the counsel for parties, pleadings and also perused the documents available on record.

47. The point that arises for consideration is “on the basis of the substantial question of environment raised in respect of increase in pollution due to vehicular emission, what is the nature of direction that can be given by this Tribunal to the State of Karnataka to implement the same”.

POINT:-

48. The grievance of the applicant in this application was that on account of user of old diesel vehicles by the BMTC and other Government Transport vehicles, large scale pollution is being caused and in respect of the same, a Writ Petition was filed before the Hon'ble High Court of Karnataka and directions were issued to the State of Karnataka to introduce CNG vehicles to curb pollution and in spite of that, no action was taken. So, the applicant filed this application seeking certain reliefs for giving directions to implement Clean and Green Fuel Policy.

49. It was not disputed by the official respondents regarding their responsibility of implementing the Clean and Green Fuel Policy, but the only difference of opinion is regarding the nature of fuel that will have to be used and whether it should be CNG or any other fuel.

50. It is also not in dispute that the Hon'ble Apex Court in **M.C. Mehta Vs. Union of India & Ors.** several decisions in the same case, dealing with air pollution, issued several directions and most of the directions were taken into consideration the serious air pollution issue faced in Union Territory of Delhi and its neighbouring States and several directions were issued by the Hon'ble Apex Court in this regard.

51. It is also not in dispute that taking into consideration the serious nature of the impact of air pollution on human health, the Central Government also launched a Clean and Green Fuel Policy and amended the Central Motor Vehicles Act and Rules by giving direction to phase out the old BS-I to BS-IV vehicles and change over to BS-VI and specifically mentioned that from 01.04.2020, only BS-IV vehicles can be registered and permitted to ply.

52. Further, it is also not in dispute that the MoEF&CC also issued certain notifications and launched certain programmes to implement the policy under the National Clean Air Programme and on that basis, several directions have been issued by the MoEF&CC as well as the CPCB in respect of establishing Continuous Ambient Air Quality Monitoring Stations throughout the country and also directed to evolve an action plan for meeting the situation and on that basis, several steps have been taken and that is being monitored by the CPCB as well.

53. In all the decisions relied on by the applicant, including the decision of the Hon'ble Apex Court in *M.C. Mehta's* case, it was noted that the air pollution was not caused on account of vehicular emission alone, but it is one of the sources of air pollution which will have to be dealt with by the respective State Governments including the State of Karnataka by implementing the Clean and Green Fuel Policy to reduce pollution caused on account of vehicular emission.

54. It is also brought out in several newspaper reports and the study conducted at global level that air pollution is increasing alarmingly and the recent report of the studies so conducted shows that out of the 100 cities identified by the organization which conducted the study has critically polluted areas, 59 such areas are falling in India. So, it cannot be said that India is free from the disaster that is likely to be faced on account of air pollution and it was also mentioned in those reports that large scale mortality is also happening on account of air pollution which goes unattended. It is also noted in those reports that large scale diseases connected to lungs are also increasing, even among children of tender age and also results in carcinogenic diseases as well, as some of the pollutants in the air are carcinogenic in nature.

55. The Principal Bench of National Green Tribunal, New Delhi had taken cognizance of air pollution in a *Suo Motu* case viz., **O.A. No.681 of 2018 (PB) (In Re news item published in The Times of India, Authored by Sri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August - 15")** and in that case, the Principal Bench of National Green Tribunal had directed a constitution of eight member Task Force Committee to be headed and co-ordinated by

the Secretary of MoEF&CC with nominees not below the rank of Joint Secretaries of Ministries from Housing and Urban Development, Road Transport and Petroleum, Power, Agriculture and Health and Chairman, CPCB with a view to monitor remedial steps to improve the status of air quality in NAC consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal referred to above including the last order dated 28.08.2020 and also to monitor complaints of noise level norms, NTF may also be monitored, enforcement of laid down air quality standards beyond NAC in other identified air pollution areas where the air quality is poor and above.

56. The Principal Bench has given various directions in the case mentioned above which includes the pollution level in Bangalore, as it was one of the identified critically polluted cities and on the basis of the directions issued by the Principal Bench, the CPCB had directed the State Governments, including the State of Karnataka to evolve action plans to curb air pollution and make the respective States pollution free, especially the critically polluted areas in compliance of the directions of the National Green Tribunal, Principal Bench, New Delhi and each State had submitted their action plans regarding the source of pollution and nature of action plan which they evolved for the purpose of curtailing pollution in the respective States which includes air pollution caused on account of vehicular emission as well and on the basis of the directions issued by the CPCB, the State of Karnataka also submitted an action plan which was reviewed by the CPCB and certain modifications have been made and directed to implement the action plan with certain time lines and that is being monitored by them.

57. It is also seen from the various reports submitted by the State of Karnataka and also the BMTC that various steps have been taken by them for implementing the Green and Clean Fuel Policy and they are taking steps to convert the old vehicles to electrical vehicles and steps are being taken for phasing out the old vehicles with electrical vehicles. They have also mentioned that the CNG is not the only method by which pollution can be curtailed and various reports relied on by them showed that the CNG was also causing some ill effects, but we are not going into those aspects, as the policy of the Government and various directions issued by the Hon'ble Apex Court includes replacement of diesel vehicles with Clean and Green Fuel vehicles, which includes CNG and Biogas and Electrical vehicles. It is for the Government to evolve a policy as to how they are going to implement the same and what is the alternate clean fuel policy that they are going to adopt, as it involves financial implications and higher level policy decisions. Further, the Tribunal cannot go into the question as to what is the nature of policy to be evolved and how that will have to be implemented, but the Tribunal can only direct the Government to evolve an effective policy in respect of change over of old vehicles with Clean and Green Fuel policy and the same will have to be implemented at the earliest possible time, as postponement of such implementation will result in great hardship to the people by way of causing health problem due to accelerated possibility of air pollution being increased.

58. The Special Bench while disposing the similar issue which was in respect of State of Tamil Nadu also in **O.A. No.422 of 2013 (L.G. Sahadevan Vs. Union of India & Ors.)** after relying on the various directions issued by

the Principal Bench of National Green Tribunal in O.A. No.681 of 2018 referred to above, directed the State Government to evolve and update the policy and other associated activities to remedy the air quality degradation may also include policy with regard to use of Clean Fuel, regulatory measures in the light of source apportionment and carrying capacity and controlling the dust. There is also a need for effective monitoring at the District Level and State Level by the Steering Committee as well as the Air Quality Monitoring Committee on regular basis subject to overall progress being monitored at National Level under the National Clear Air Programme.

59. The Principal Bench in that case had reproduced certain aspects in Para (4) of the order which reads as follows:-

"4. We find no justification for such neglect of an important issue of air pollution in Chennai which required emergency measures in the interest of public health of the citizens. New Government has been in office for more than six months. Different steps on the subject taken by Central and many State Governments and orders of the Hon'ble Supreme Court are in public domain.

5. This Tribunal has dealt with the issue of air pollution in the context of adequacy of clean air programme of the Central Government for 124 cities³ 'non-attainment cities', where air quality exceeds standards, based on the data compiled by the CPCB. The Tribunal directed constitution of Air Quality Monitoring Committees (AQMCs) in all the States, including the State of Tamil Nadu, to prepare action plans to remedy the situation. The AQMC for Tamilnadu can be consulted for action plan for Chennai city and its agglomeration area. For ready reference, final directions in the said order are reproduced below:

"60. xxx xxx.....xxx

- i. We direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees (not below the rank of Joint Secretaries) of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and Chairman, CPCB with a view to monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. NTF may also monitor enforcement of laid down air quality standards beyond NACs in*

³Order dated 08.04.2021 in OA No. 681/2018, In re: News item published in "The Times of India" Authored by ShriVishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15

other identified air polluted areas where air quality is poor and above.

- ii. *The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels.*
- iii. *Monitoring by NTF may be with reference to the action plans of 124 NACs. The components include installation of monitoring stations, completion of CC and SA studies, shifting, prohibiting and regulating activities beyond carrying capacity (such as shifting to cleaner fuel and declaring regulated/no vehicle zones so as to ensure that the air quality does not go beyond „poor“ for protection of health of the citizens), effectiveness of PGRPs, timelines for execution of the action plans and recovery of compensation for delay, addressing gap in control of noise pollution, afforestation drives utilizing CAMPA funds, effective implementation of ERS, revamping of PCBs/PCCs and other monitoring mechanism, remediation of legacy waste sites and effective steps for management of other waste, including biomedical, plastic and e-waste, dust control, public awareness and community involvement programmes and setting up of data grids on all levels. NTF may also evolve and oversee parameters for interse ranking of success of remedial action for 124 NACs and other air polluted areas where air quality is poor and above. Further, accountability for failures and incentives for success also needs to be monitored. NTF is free to take up any other incidental issues.*
- iv. *Consistent with Digital India initiatives, MoEF&CC/ CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) and District Environment Data Grids (DEDGs) and further linked to available portals like online air quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to National Air Quality Monitoring Programme (NAMP). Based on above data, the MoEF&CC may lay down guidelines for classifying cities/districts in terms of air quality in different categories such as „red“, „orange“ and „green“. On that basis, a National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs annually.*
- v. *The Chief Secretaries of all States/UTs may continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers. The issue of noise pollution also needs to be addressed, as earlier directed.”*

6. We may also refer to order of the Hon'ble Supreme Court dated 29.10.2018 in W.P.(C) No. 13029/1985, M.C. Mehta v. Union of India & Ors. which is as follows:

“Report No.92

Learned amicus curiae has placed before us some submissions on urgent actions to control air pollution in NCR.

We have gone through the suggestions that have been given and are of the opinion that the three suggestions are eminently reasonable and must be implemented with immediate effect.

These suggestions, which are now the directions of this Court, are as follows:

- 1. The Transport Departments of NCR will immediately announce that all the diesel vehicles more than 10 years" old and petrol vehicles more than 15 years" old shall not ply in NCR in terms of the order of the National Green Tribunal dated 07.04.2015. The order of the National Green Tribunal was challenged in this Court and the Civil Appeal was dismissed. Vehicles violating the order will be impounded. The list of such vehicles should be published on the websites of the Central Pollution Control Board (CPCB) and the Transport Departments of NCR. Similarly, a meaningful advertisement should be published in a local newspaper for the convenience of the owners of the vehicles.*
- 2. CPCB will immediately create a social media account on which the citizens may lodge their complaint directly to be acted upon by the Task Force responsible for implementation of Graded Response Action Plan.*
- 3. EPCA is permitted to take pre-emptive steps under the Graded Response Action Plan without strict adherence to pollution stages delineated in the plan*

The last direction is being issued in view of the more or less critical situation in NCR, particularly in Delhi with regard to air pollution.

We have been shown a Note prepared by the Chairman of EPCA on 28th October, 2018.

The photographs attached to the Note indicate a fairly terrible state of affairs with regard to pollution in various parts of Delhi. It is for this reason, we are compelled to pass the above orders in the first instance

With regard to the Note submitted by the Chairman, EPCA on visits to hot spots of NCR to ascertain ground level enforcement of directions issued and actions taken, the Delhi Government as well as the Delhi State Industrial and Infrastructure Development Corporation Ltd. should file an affidavit within two days."

7. Data of air quality and laid down air quality norms are well known. There is no dearth of expertise for handling the subject in the State administration. What is required is taking an informed responsible decision in the larger interest of public health and enforcing the laid down air quality standards.

8. Accordingly, we direct the Principal Secretary, Transport, Government of Tamil Nadu, in coordination with other concerned authorities, to positively prepare the necessary action plan at the earliest, if not already done and file the same before the Tribunal before the next date."

60. The statement submitted by the CPCB also reveals that already they have launched certain programmes which the State Governments are expected to implement which is being monitored by them.

61. So under such circumstances, we feel that the matter can be disposed of by giving the following directions:-

- a. The State of Karnataka is directed to strictly implement the directions issued by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB)⁴.
- b. The State of Karnataka is also directed to implement the directions issued by the Central Pollution Control Board (CPCB) under the National Clean Air Programme and implement the action plan approved by the CPCB in the light of the directions issued by the Principal Bench in O.A. No.681 of 2018 (PB) as referred to above, strictly in compliance with the timelines provided in that action plan and the timeline provided by the CPCB.
- c. The State of Karnataka is also directed to form a monitoring committee under the leadership of (i) the Additional Chief Secretary to Government, Forests, Environment and Ecology Department, (ii) the Principal Secretary to Government, Department of Transport, (iii) the Additional Chief Secretary to Government, Department of Finance, (iv) a Senior Officer from the Integrated Regional Office, Central Pollution Control Board (CPCB) at Bangalore and (v) the Chairman - State Pollution Control Board (SPCB), Karnataka to review the action plan prepared for the implementation of the National Clean Air Programme and implementation of Clean and Green Fuel Policy in the State of Karnataka and implementation of the action plan (if any) already prepared by them pursuant to the

⁴ (A news item published in The Times of India, Authored by Sri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August - 15")

directions given by the CPCB in compliance with the directions of the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and if there is any gap found, they are directed to evolve modified action plans to fill up the gap and fulfill the obligation of providing clean air in the State of Karnataka, including the critically polluted cities in the State of Karnataka which includes Bangalore as well.

- d. Meeting of the Committee mentioned above has to be reviewed by the Chief Secretary to Government, State of Karnataka periodically atleast once in three months and give necessary directions and support (both financial and technical) to implement the action plan so evolved to achieve the goal, that too with shorter timelines.
- e. The Chief Secretary to Government, State of Karnataka is also directed to form District Level Committees to implement these programs in the respective districts as well to accomplish the goal of making the State of Karnataka, a pollution free State in compliance with the constitutional mandate of protecting environment under Article 48 A of the Constitution of India and providing a clean environment, including clean air as part of Right to Life as enshrined under Article 21 of the Constitution of India.
- f. The Central Pollution Control Board (CPCB) is directed to monitor the implementation of the directions issued under the National Clean Air Programme and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and the directions issued by this Bench, consequential to the orders passed by the Principal Bench in respect of this case and submit periodical reports to this Tribunal regarding the progress

and improvement in the air quality and further recommendations (if any) to be made for achieving the goal of National Clean Air Programme and implementation of National Clean and Green Fuel Policy to this Tribunal **once in 4 (Four) Months** till the goal is achieved in its entirety.

62. In the result, the Original Application is allowed in part and disposed of with the following directions:-

- (i) The State of Karnataka is directed to strictly implement the directions issued by the Principal Bench of National Green Tribunal, New Delhi in **Original Application No.681 of 2018 (PB)**⁵.
- (ii) The State of Karnataka is also directed to implement the directions issued by the Central Pollution Control Board (CPCB) under the National Clean Air Programme and implement the action plan approved by the CPCB in the light of the directions issued by the Principal Bench in O.A. No.681 of 2018 (PB) as referred to above, strictly in compliance with the timelines provided in that action plan and the timeline provided by the CPCB.
- (iii) The State of Karnataka is also directed to form a monitoring committee under the leadership of (i) the Additional Chief Secretary to Government, Forests,

⁵ (A news item published in *The Times of India*, Authored by Sri Vishwa Mohan titled "NCAP with multiple timelines to clean air in 102 cities to be released around August – 15")

Environment and Ecology Department, (ii) the Principal Secretary to Government, Department of Transport, (iii) the Additional Chief Secretary to Government, Department of Finance, (iv) a Senior Officer from the Integrated Regional Office, Central Pollution Control Board (CPCB) at Bangalore and (v) the Chairman – State Pollution Control Board (SPCB), Karnataka to review the action plan prepared for the implementation of the National Clean Air Programme and implementation of Clean and Green Fuel Policy in the State of Karnataka and implementation of the action plan (if any) already prepared by them pursuant to the directions given by the CPCB in compliance with the directions of the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and if there is any gap found, they are directed to evolve modified action plans to fill up the gap and fulfill the obligation of providing clean air in the State of Karnataka, including the critically polluted cities in the State of Karnataka which includes Bangalore as well.

(iv) Meeting of the Committee mentioned above has to be reviewed by the Chief Secretary to Government, State of Karnataka periodically atleast once in three months and give necessary directions and support (both financial and technical) to implement the action plan so evolved to achieve the goal, that too with shorter timelines.

(v) The Chief Secretary to Government, State of Karnataka is also directed to form District Level Committees to implement these programs in the respective districts as well to accomplish the goal of making the State of Karnataka, a pollution free State in compliance with the constitutional mandate of protecting environment under Article 48 A of the Constitution of India and providing a clean environment, including clean air as part of Right to Life as enshrined under Article 21 of the Constitution of India.

(vi) The Central Pollution Control Board (CPCB) is directed to monitor the implementation of the directions issued under the National Clean Air Programme and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.681 of 2018 (PB) and the directions issued by this Bench, consequential to the orders passed by the Principal Bench in respect of this case and submit periodical reports to this Tribunal regarding the progress and improvement in the air quality and further recommendations (if any) to be made for achieving the goal of National Clean Air Programme and implementation of National Clean and Green Fuel Policy to this Tribunal **once in 4 (Four) Months** till the goal is achieved in its entirety.

(vii) Considering the circumstances, parties are directed to bear their respective cost in the application.

(viii) The Registry is directed to communicate this order to the Chairman - Karnataka State Pollution Control Board, Integrated Regional Office, Central Pollution Control Board (CPCB) at Bangalore, the Principal Secretary to Government, Department of Transport, the Additional Chief Secretary to Government, Forests, Environment and Ecology Department, the Additional Chief Secretary to Government, Department of Finance, and the Chief Secretary to Government, State of Karnataka for their information and compliance of directions.

(ix) As and when such reports are filed, the Registry is directed to place the same before the Bench for consideration and issuing necessary directions (if any) required in this regard.

63. With the above observations and directions, this Original Application is disposed of.

Sd/-
Justice K. Ramakrishnan, JM

Sd/-
Dr. Satyagopal Korlapati, EM

O.A. No.183/2016 (SZ),
13th April 2022. Mn.

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF
2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava
and Mr. Salik Shafique, Advs.
Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for
MoEF
Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms.
Arpita, Advs. for DDA.
Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Rahul Mehra, Adv. and Mr. Zubeda Begum,
standing counsel for GNCTD, Civil
Ms. Savitri Pandey and Ms. Azma Paven, Adv.
Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Adv.
Mr. Narender Pal Singh, Adv. and Mr. Dinesh
Jindal, LO, DPCC

	Date and Remarks	Orders of the Tribunal
	Upon mentioning April 13, 2015	This matter taken upon mentioning The Learned Counsel appearing for the NCT, Delhi, MoEF, other Ministries and even other Learned Counsel appearing for state stakeholders raised a contention is that the prohibitory orders of the NGT in relation to the 10 years old diesel vehicles are causing serious concern and practical difficulties to the Government and Authorities. It is specifically being stated that NCT, Delhi has regards for entire provisions of the order and the concerned

	Government has taken policy decision on order of the Tribunal. However, they seek some time to enable the authority to effectively comply with the directions therein. We appreciate the initiative and responses of the Government of Delhi and other concerned state Governments to provide cleaner air and better environmental life. We find some substance in the submission made on behalf of various Government and authorities and the stakeholders. We may notice that by our orders dated 28th November, 2014, 01st December and even passed subsequently we had repeatedly asked the state Government, Central Government and other public authorities to submit their suggestions on data furnished for preventing and controlling air pollution and places for restoring of ambient air quality of Delhi. Unfortunately we received no suggestion. In the larger public interest and to ensure public utility services and keeping in mind the submissions made by the Learned counsel particularly for NCT, Delhi who shall mainly get adversely affected due to impounding of diesel vehicle of more than 10 years old and to ensure that the common citizen of Delhi does not suffer in day to day life, we pass the following directions :- 1. These direction are to be read in conjunction with and not in the derogation of the earlier orders passed by the Tribunal except to the limitation and extent stated hereinafter. a. The Ministry of Surface Transport, MoEF, Urban Development, Ministry of Petroleum, Union of India, NCT, Delhi and other authority concerned should submit to the Tribunal

		within two weeks from today, their complete reasoned and scientifically supported views Inter alia but mainly on the following views by way of affidavits to be filed by the person not less than Additional Secretary, in the case of Central Government, and Secretary of the concerned department in NCT, Delhi and public authorities. i. Age of all vehicles to be permitted to run in NCT, Delhi with reference to all sources of energy/fuel. ii. Cap on the No. of vehicles to be registered in the NCR, Delhi with reference to sources of energy/fuel. iii. Incentive to be provided to the members of public who adopt pool commutation/travel. iv. Benefits or concessions that can be provided to the transferor/transferee of the vehicle which are prohibited to run in NCR, Delhi, on the roads of NCT, Delhi. v. It should be kept in mind that vehicles are prohibited because of high density of traffic and greater pollution are likely to be shifted to the places of lesser density of vehicles and lesser pollution because of the expanse of air available and openness available there. vi. Concession/benefits which would be available to the person who scrap his vehicle as a result of any or all of the

		restriction in terms or order of the Tribunal and law in force. vii. Public transport vehicles to be provided on priority at all the places which have high commercial activities, markets or industrial areas. viii. Wherever parking area or multi-storied parking have been provided rationalisation of parking charges to encourage people to park in such parking areas and not on the main road. ix. Imposition of higher registration and other charges including congestion charges particularly in relation to the owner of the vehicle who possesses for himself and for family more than one vehicle. b. Research to be conducted to find out suitable converters for emissions from vehicles and beneficial use of energy for running cars. c. Steps are required to be taken for ensuring quality of emissions released directly by Government major projects like Indraprastha, Bhadra and Raj Ghat, Thermal Power Project and even other major plants run by the Government and instrumentalities of the Government within the standards prescribed by law. 2. Suggestions as to how the air pollution in Delhi can be checked immediately and the method by which ambient air quality of Delhi can be restored to clean

	air standards. We may notice that during the hearings in the last 6 months we had asked for the suggestions and comments on all these issues without much result. We do hope that all the Government and concerned stakeholders will respond on these issues without default and delay within the prescribed time. During the period of two weeks that we have provided to all the concerned authorities there shall be impounding of vehicles on account of age. In furtherance to our earlier orders we make it clear that we are varying our directions only to this limited extent. However, all vehicles shall be subject to prescribed pollution check and other environmental norms. Suggestions shall also be given by the Central Pollution Control Board and Delhi Pollution Control Committee together. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

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

Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 502, 618, 631, 683, 778, 778, 812,
1014, 1015, 1029 of 2015 & 1086 of 2015)
And
Original Application No. 95/2014
And
Original Application No. 303/2015

IN THE MATTER OF :

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.
And
Supreme Court Women Lawyers Association Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present: Applicant: Mr. Sanjay Upadhyay along with Ms. Divya Sharma, Adv. Mr. Syed Meesam and Mr. Vardhman Kaushik.

Respondent No. 1: Ms. Panchajanya Batra Singh, Adv. For MoEF & CC

Respondent No. 6 & 7 : Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Adv. for MoUD & MoPNG

Mr. Narender Pal Singh, Adv, Dr. M.P. George, Sr. Scientist Kulanad Joshi, Member Secretary,. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment

Mr. Om Prakash, Adv. MoR Northern Railway

Mr. D. Rajeshwar Rao and Mr. Charanjeet Sing, Adv. for Transport Deptt. and Delhi Police, GNCT, Delhi

Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Irene Cheiran Director for MoRTH(NHAI)

Ms. Pinky Anand, ASG and Mr. Akshay Abrol, Adv. for CONCOR

Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Adv. For State of Meghalaya

Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P.

Ms. K. Enatoli Sema and Mr. Amit Kumar Singh, Adv. State of Nagaland

Mr. Atul Jha, Adv. for State of Chhattisgarh

Mr. Apoorv Kurup and Mr. A.C. Boxipatro, Adv. for State of Chhattisgarh.

Mr. Rajiv Bansal and Mr. Kush Sharma, Adv. (DDA)

Ms. Aruna Mathur, Standing Counsel, Mr. Avneesh Arputham and Ms. Anuradha Arputham, Adv. For State of Sikkim

Mr. Sapam Biswajit Meitei, Ms. Kalyani and Mr. Z.H. Issaac Haiding, Adv. for State of Manipur & PCB

Ms. Vinakshi Kadar and Ms. Hemantika Wahi, Adv. For State of Gujarat

Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap,
 Advs. for NOIDA and Gr. NOIDA
 Ms. Abhisar Bairagi, Adv.
 Mr. Gopal Singh, Mr. Rituraj Biswas, and Ms.
 Versha Poddar, Advs. for the State of Tripura
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr.
 Divya Singh, Advs. for State of Bihar and BSPCB
 Ms. Nandini Gore, Ms. Natasha Sehrawat, Ms.
 Khushboo Bari, Mr. Bipin, Mr. Shermendra
 Choudhary, Advs. for Tata Motors
 Mr. A.N.S. Nandkarni, Ag, Mr. Dattaprasad
 Lawande, Mr. S. S. Rebello, Ms. Purna Bhandari,
 Mr. Anshuman Shrivastava and Mr. Debarshi
 Bhuyan, Advs.
 Mr. Kabir Shankar Bose and Mr. Saakar Sardana
 and Ms. Holika Sukhavi, Advs. For State of W.B. &
 WBPCB.
 Mr. Gaurav Agarwal and Mr. Akshat Srivastava,
 Advs. for IGL
 Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V.
 Jagdishvaran, Advs. For UT of Andaman & Nicobar
 Islands Administration
 Mr. G. Indira, Mr. Sumit Kumar and Mr. K.V.
 Jagdivaram, Advs.
 Mr. Suryanarayan Singh, Sr. Addl. Advocate
 General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana,
 Advs. For State of Haryana
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for
 MCD and EDMC
 Mr. Naushad Ahmed Khan, Standing Counsel for
 Delhi Transport Corporation
 Mr. Jogy Scaria and Ms. Beena Vicky, Advs.
 Mr. Saurav Agarwal and Ms. Akshat Srivastava,
 Advs.
 Ms. Sakshi Popli, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal
 Corporation and North Delhi Municipal
 Corporation
 Mr. Ravikant Pal, Mr. Pulkit Prakash and Mr.
 Pragyan Sharma, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh
 Sharma and Mr. Adhiraj Rajawat, Advs. For State
 of Rajasthan.
 Mr. Sunil Satayarth, Adv. and Mr. Ashok Kumar,
 Adv s. For Delhi Cantonment Board
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Ms. Natasha Sahrawat, Ms. Nandini Gore and Mr.
 Aditi Bhatt, Advs. With Mr. Sharmendra
 Choudhary, Legal Manager, Mr. Bipin Das, Legal
 Manager
 Mr. Avijit Roy, Ms. Kankara Arandhara and Ms.
 Deepika Ghatowar, Advs. For State of Assam.
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder
 Sidhu and Ms. Gunjan Sinha Jain, Advs. for NHAI
 Mr. Diljeet Titus and Mr. Utkarsh Goel, Advs.,
 Advs. For HMCI
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Soumya Jit Pani and Mr. P. Venkatesan, Advs.
 for State of Odhisa
 Mr. Dinesh Kumar Garg and Mr. Parv Kumar Garg,
 Advs. AOR for State of Uttarakhand
 Mr. Anil Shrivastav, Standing Counsel and Mr.
 Sanyam Saxena and Mr. Pranav Rishi, Advs. For
 State of Arunachal Pradesh & PCB

Mrs. Avnish Ahlawat and Mr. N.K. Singh, Advs for
DSIU and PWD
Mr. Guntur Prabakar and Mr. Prashant Mathur,
Advs. For State of Andhra Pradesh
Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for
Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr.
Purna Bhandari, Ms. S.S. Rebello, Mr. Anshuman
Srivastava and Mr. Debarshi Bhuyan, Advs. for
State of Goa and Goa SPCB.
Ms. Alpana Poddar, Adv. along with Mr. S.L.
Gundli, Sr. LO, Central Pollution Control Board
Mr. Anuj Sharma and Mr. Santosh S. Rebello, Adv.
Ms. Puja Singh, Adv.
Mr. Soumyajit Pani and Mr. P. Venkatesan, Advs.
Mr. Jeevan B. Panda and Ms. Abhisar Bairagi,
Advs.

Present: Applicant:

Respondent No.1:

Respondent Nos. 2 to 6:

Mr. Vikas Malhotra, with M. P. Sahay, Advs.
Mr. Ardhendumali Kumar Prasad, Mr. Pryanka
Swami and Mr. Jigdal G. Chankapa, Advs.
Mr. Rahul Choudhary, Adv. for Invenor
Ms. Prerna Singh and Mr. Prashant Mathur, Advs.
For State of Andhra Pradesh
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs.
For State of Tamil Nadu & TNPCB
Mr. Kabir Shankar Bose and Mr. Saakar Sardana
and Holika Sukhalu, Advs. For State of W.B. &
WBPCB.
Mr. Suryanarayan Singh, Sr. Addl. Advocate
General for State of H.P.
Ms. K. Enatoli Sema and Mr. Amit Kumar Singh,
Adv. State of Nagaland
Mrs. G. Indira and Mr. K.V. Jagdishvaran, Advs.
For UT of Andaman & Nicobar Islands
Administration and Mr. Sumit Kumar, Adv.
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Devraj Ashok, Adv. for State of Karnataka
Ms. Aruna Mathur, Standing Counsel, Mr. Shobhit
Nanda, Advs. For State of Sikkim
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand
Sharma and Mr. Kalyani Goswami, Mr. Vijayanand
Advs. for State of Manipur & PCB
Mr. Anil Shrivastav, Standing Counsel and Mr.
Sanyam Saxena and Mr. Pranav Rishi, Advs. For
State of Arunachal Pradesh & PCB
Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Advs. For State of Haryana, Managing Director,
HSIIDC, Haryana, DSP, Panipat & DSP, Rewari,
Chief Engineer, HUDA adn Regional Officer,
HSPCB, Gurgaon, North
Mr. Ravikant Pal, Mr. Pulkit Prakash and Mr.
Pragyan Sharma, Advs. for State of Mizoram
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Tariq Adeeb, Adv. in M.A. No. 1029 of 2015
Mr. Deepak Jain, Mr. Alok Misra, Mr. D.K. Thakur,
Ms. Shantala Sankriti and Ms. Aditi Toma, Advs.
Mr. Shubham Jaiswal and Mr. Sarthak Chaturvedy,
Advs.

Original Application No. 303 of 2015

Applicant :

Respondent No. 1 :

Ms. Bhakti Pasrija Sethi, Ms. Prerna Kumari, Ms.
Mamta Rani and Ms. Sudha Pal, Advs.
Mr. Vishwendra Verma, Mr. Pranav Verma and Mr.
Karan Sinha, Advs. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 4 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Adv. for State of UP.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. For State of Haryana
Ms. Alpanna Poddar, Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 28 to 30 December 11, 2015 ss	It is not only undisputable, but in fact the conceded position, that there are 3 prime sources of air pollution in NCT, Delhi as well as NCR, the burning of Municipal Solid Waste and other waste in open, dust generated by construction and allied activities including sweeping of roads and finally vehicular pollution. In regard to all these three aspects, Tribunal had already passed comprehensive directions vide its order dated 26th November, 2014, 04th December, 2014, 07th April, 2015, 28th April, 2015, 07th July, 2015, 17th April, 2015, 14th July, 2015, , 27th July, 2015, 30th July, 2015, and 02nd December, 2015. The Learned Additional Solicitor General appearing for Union of India has stated the aspect on capping of vehicles, it is primarily for the NCT, Delhi to take a stand before Tribunal and as far as end of life of vehicle is concerned, Ministry has already taken the stand that commercial diesel vehicles attaining age of 10 years should be directed to take PUC certificate every 6 months and after 15 years they should be condemned. However, in relation to petrol vehicles, the Union of India does not favour scrapping of vehicle on ageing or otherwise. The Learned Counsel appearing for NCT, Delhi submits in relation to various queries raised by the Tribunal for implementation of the directions already issued that he

	needs further time. He further states that the clear stand of the Government is to impose even and odd car system on the alternative days and for considering all other aspects which would be simultaneously operative to achieve the objective and reduction in air pollution in Delhi, he prays for some time. We think that the authorities concerned must sit together and clearly answer the queries raised by the Tribunal as well as relation to the compliance of the directions already issued which in their considered opinion if implemented simultaneously with the odd and even car system proposed to be introduced would make it for more effective and result oriented. We direct that by way of last opportunity, we grant time to all the Learned Counsel appearing in the case to seek instructions and report to the Tribunal on those aspects. The Learned Additional Solicitor General submits that the Central Government's view of providing certain special benefits for condemnation/scrapping of vehicles have been favorable as has been stated in the note put up before the Tribunal today. Let the Government of NCT, Delhi, consider this view and clearly take stand as to the system to be adopted for scrapping of vehicles particularly diesel vehicles which are more than 10 years of age and the consequential benefits in registration, scrapping, incentive and other incidental benefits that would be granted to the owner of the vehicle in respect of new vehicle like Registration fee/excise duty. Let these instructions be taken by the next date of hearing. The Learned Counsel appearing for NCT, Delhi submits that in all the RTOs in Delhi around 1300 to

	1400 vehicles are being registered everyday which include all types of vehicles heavy and light including two wheelers. Obviously, reasonably good number of vehicle are also being registered at Gurgaon, Bahadurgarh, Ghaziabad and NOIDA. These are over and above the vehicles registered in Delhi. In view of the serious contribution of vehicular pollution to the air quality of NCT, Delhi it is important that the Government should take a serious view and a decision, whether any vehicle particularly Diesel Vehicle (old or new) should be registered in the NCT, Delhi. As an interim measure till next date of posting subject to hearing of all the concerned parties, we direct that Diesel Vehicles of more than 10 years of age as already directed, as well as new diesel vehicle would not be registered in NCT, Delhi. We also direct the Government to take a conscientious decision in regard to not buying any diesel vehicle, whether by the Central or the State Government. The Learned Counsel should take clear instructions in that regard. We direct all the Public Authorities, Corporation, DDA, Police and other Public Department to prepare an Action Plan for phasing out of diesel vehicles particularly the trucks being used by all these bodies. Let this Action Plan be placed before the Tribunal on the next date of hearing. Another very serious aspect is that incidents of waste burning in the open have been brought to the Notice of the Tribunal and they are even widely reported. In furtherance to the Directions, we hereby direct all the

		Corporations, DDA, Cantonments and SHOs of the concerned Police Stations that they would ensure that no waste is burnt in the open and none is disobeying the directions, besides rendering himself liable for punitive action under law and to pay Environmental Compensation as per Section 15 and 16 of NGT, Act, 2010 at the rate of Rs. 5,000/- per event. Similarly, it would also apply to dumping of construction and other waste material in public places and on the river bed. We hereby also direct that builders who keep their dust, sand, cement, brick and other construction materials on the public place and road, as per the directions of the Tribunal already issued, would not be permitted to do so. Besides, seizing such materials under the provision of the Municipal Corporation Act of the Delhi, they would be liable to pay environmental compensation at the rate of Rs. 50,000/- per incident as already directed. Even the construction material which is stored within the building should be covered, and it should be ensured that there is no emission and it does not disperse into the atmosphere. This will also apply to transportation of construction materials. These directions will be applicable to NCR Delhi as afore indicated. All the Authorities may file list of offenders before the next date of hearing. Let all concerned authorities issue public Notice and these directions should be brought into the public domain by the concerned authorities before they take punitive action. In relation to taking of adequate measures for preventing air pollution in schools particularly Government, Corporation Schools, NCT Delhi is directed to submit a proposal for creating green belt,

	converting the ground by grass and installation of air filters in the schools. The DDA, all Bodies including NDMC, Delhi Cantonment Board and Government should also examine the possibilities of sprinkling water. List this matter on 06th January, 2016. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



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

Original Application No. 21/2014

And

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A NO. 155/2015, M.A NO. 394/2015, M.A NO. 412/2015 TO M.A NO. 414/2015, M.A NO. 420/2015, M.A NO. 502/2015, M.A NO. 618/2015, M.A NO. 631/2015, M.A NO. 683/2015, M.A. NO. 778/2015, M.A. NO. 812/2015, M.A. NO. 1014/2015, M.A. NO. 1015/2015, M.A. NO. 1029/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015, M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A. NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO. 475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO. 523/2016, M.A. NO. 545/2016, M.A. NO. 564/2016 , M.A. NO. 567/2016 , M.A. NO. 578/2016 , M.A. NO. 660/2016 , M.A. NO. 661/2016 , M.A. NO. 545/2016 & M.A. NO. 567/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present:	Applicant:	Mr. Sanjay Upadhyay and Mr. Salik Shafique, , Advts.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Advts. For MoEF & CC Mr. Rajiv Bansal and Mr. Kush Sharma, Advts. For DDA Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advts. for Transport Deptt. and GNCTD Mr. Raman Yadav, Adv. for GDA Mr. Om Prakash, Adv. for Ministry of Railways Ms. Sakshi Popli, Adv. for NDMC Mr. R. Rakesh Sharma and Mr. Maruthasamy, Advts. for State of Tamil Nadu & TNPCB

Mr. Abhishek Yadav, Adv. for State of U.P.
 Mr. Pinaki Mishra, Sr. Adv. with Mr. Mukesh Verma, Advs. For MPCB/State of Maharashtra
 Mr. Taruna A. Prasad, Adv. for MoEF
 Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. for PWD, Delhi Police and Transport Dept.
 Mr. Devraj Ashok, Adv. for State of Karnataka and KSPCB
 Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Advs. For MoUD/PNG R.No.-2-6
 Mr. V.K. Shukla, Adv.
 Anil Grover, AAG and Mr. Rahul Khurana, Advs. for State of Haryana
 Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Adv. for State of Rajasthan & RSPCB
 Mr. Pragyan Pradip Sharma and Mr. Ravi Kant Paul, Advs. For State of Mizoram
 Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs. for State of Telangana
 Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC
 Ms. Puja Kalra, Adv. for North and South MCD
 Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA
 Mr. Jogy Scaria and Ms. Beena Victor, Advs. For State of Kerala and KSPCB
 Ms. Asha Nayar Basu and Mr. Amit Agarwal, Advs. For West Bengal PCB
 Mr. Alpana Poddar and Mr. Raj Kumar, Advs., for CPCB
 Mr. Balendu Shekhar and Mr. Akshay Abrol, Advs. For EDMC
 Mr. Pinky Anand, ASG with Ms. Somya Rathore, Adv. Dept of Heavy Inds. Along with Mr. Rajesh Ranjan, Adv. and Mrr. Balendu Shekhar, for MoRTH, NHAI, CONCOR
 Ms. Nandini Gore and Ms. Khushboo Basi, Advs. for Tata Motors Ltd.
 Mr. Sandeep Narain and Mr. Ashok Bannidinni, Advs.
 Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Advs. For Andman and Nicobar Admin.
 MR. Edward Belho, Mr. K. Luikang Michael and Elix Gangmei, Advs. For State of Nagaland and PCB
 Mr. Darpan Wadhwa, Mr. Arjun S. And Mr. Arnav Kumar, Advs. For Applicant in MA 660 to 669/2016.
 Mr. Anil Shrivastav, Mr. Pranav Rishi, Ms. Sanyam Saxena and Ms. Astha Sharma, Advs. for Arunachal Pradesh and Pollution Control Board
 Mr. Pragyan Sharma and Mr. Ravi Kant, Advs. for State of Mizoram and Mizoram SPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Sapam Biswajit Meitei and Mr. Z.H. Isaac Haiding, Advs. for State of Manipur

Ms. Aruna Mathur, Ms. Anuradha Arputham and
Ms. Avneesh Arputham, Advs. for State of Sikkim
Mr. Suryanarayan Singh, Sr. Addl. AG for State of
Himachal Pradesh
Mr. Simranjeet Singh, Adv. for NHAI
Mr. Vijay K. Sondhi and Ms. Cauveri Birbal, Mr.
Aranyak Pathak and Ms. Avantika, Advs.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs. for
Punjab PPCB
Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar
and Mr. Prashant Mathur, Advs. for State of A.P.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar
Nigam
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Rudreshwar Singh and Mr. Gautam Singh,
Advs. for State of Bihar and Bihar SPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 155 of 2015</u> This application relates to relief for vintage car, on 26th November, 2014 and 28th November, 2014. Proper orders had already been passed. No need for passing further order in this Application. Consequently, the M.A. No. 155 of 2016 stands finally disposed of. <u>M.A. No. 284 of 2015</u> Nobody is present on behalf of the Applicant. The application is dismissed for default of appearance. <u>M.A. No. 394 of 2015</u> This application practically has been rendered infrustuous and dismissed as such. However, whatever material has been placed on record, i.e. suggestions or steps to be taken and/or proposed to be taken will be taken at the time of final hearing. No further direction is being passed now. Consequently M.A. No. 394 of 2015 stands disposed of.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 412 of 2015 and M.A. No. 413 of 2015</u> The Applicant in either of these applications is not present. We have heard the Learned counsel appearing for the parties. The prayer in the application is for setting aside order of the Tribunal dated 07th April, 2015 by which it was directed that the diesel vehicles which are more than 10 years old should not be permitted to ply on Delhi roads. Firstly, this application is mis-conceived in as much as after the Tribunal passed order on 07th April, 2015, the same was challenged before the Hon'ble Supreme Court of India and the Statutory Appeal was dismissed by the Hon'ble Supreme Court of India. The old diesel vehicles undisputedly are the source of air pollution. It has been brought on record before us that even during the odd-even enforcement by the NCT, Delhi the ambient air quality of Delhi was not found to be much improved. In fact the parameters remained excessive. In our order dated 04th July, 2016 in Original Application No. 179 of 2016 – Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors. we had noticed the excessive parameters of the ambient air quality which reads as under:- <i>“Learned Counsel appearing for the Central Pollution Control Board submits that the complete and comprehensive analysis report has been placed on record. As per this report the ambient air quality in Delhi during the Odd-Even implementation period is found to be more deteriorated than the one when the said restriction was not inforce.</i> <i>As per the analysis report the average value of PM_{2.5} is higher during odd-even phase than pre odd-even period. During the odd-even period it varied from 63 to 182 as against the pre odd-even when it which varied from 45 to 143. Similarly other parameters like PM₁₀, NO₂, SO₂, CO and Ozone all through the period were noticed to be higher than the pre odd-even period ambient air quality.</i> <i>The Learned Counsel appearing for the NCT of Delhi prays for time to seek instructions and</i>

Item No. 13 to 17 July 18, 2016 ss	<i>examine the impact of this report on the decision of Government of NCT of Delhi. The Counsel would also require the transport department of NCT of Delhi to give vehicular data and place the same before the Tribunal in relation to prior and during odd-even period.</i> <i>The analysis report even for the first period of odd-even policy, filed on record, is also showing similar trends.”</i> This would show that even during enforcement of odd-even, ambient air quality had hardly improved. This itself is an indicative of the fact that to the extent of pollution being caused by vehicles, it is the old vehicles which substantially contribute majorly to the air quality and therefore they must be stopped. Besides, the fact that the order passed by the Tribunal on 07th April, 2015 has already attained finality and has become binding. We in any case see no reason to vary our said order. In fact that order requires to be enforced more vigorously and effectively by the authorities concerned. It is an accepted fact, not only in India but all over the world, that the emission from diesel vehicle are more injurious to environment and consequently the health of the people than petrol or the vehicles being run on other sources of energy like CNG, Electricity etc. This vehicular pollution could be controlled by not permitting the vehicles causing emissions which would increase PM₁₀, PM_{2.5}, SO₂ and NO_x in the ambient air quality of that place. Furthermore, it is the NCR Delhi where the vehicular density is very high, the prohibitory directions have been passed. The same very vehicles could be driven in other places where there is larger space available for dispersion and dilution of vehicular emission from such vehicles. Be that as it may, we are of the considered view that

	Item No. 13 to 17 July 18, 2016 ss	there is no occasion for the Tribunal to set aside the order date 07th April, 2015. It has been pointed out by the various Authorities including Delhi Traffic Police that they have made definite attempts to stop diesel vehicles which are more than 10 years old to ply on the road, but efforts hardly had met with any success. Few challans and fines of a smaller amount have been made under the Motor Vehicle Act which has not lead to any tangible impact. It is also stated that impounded vehicles are released by Learned Magistrate in exercise of their jurisdiction under the Motor Vehicles Act. Consequently, we hereby direct that the RTOs of NCR, Delhi, Haryana, Rajasthan will deregister all the diesel vehicles which are more than 10 years of age. Upon deregistering such vehicles they will supply the list of all deregistered vehicles to the Traffic Police which in turn to take appropriate steps as already directed under the order of the Tribunal and under the provision of the Motor Vehicle Act. The Traffic Police and the RTO shall issue public notice of these orders forthwith. It is to be noticed here that other major sources of air pollution in Delhi are from dust and burning of waste for which we have already passed detailed directions separately and we required Central Pollution Control Board, Delhi Pollution Control Committee, NCT, Delhi and all other Public Authorities to file the Status report in relation to compliance of the directions already issued by the Tribunal in this case vide order dated 10th April, 2015. M.A. No. 412 of 2015 is accordingly disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 413 of 2015</u> This application is filed on behalf of DTC praying that it should be permitted to operate 56 numbers of diesel trucks, out of these 6 trucks are less than 10 years old and 30 trucks are between 10 to 11 years old and 20 are between 12-13 years old. In view of the above order, the trucks which are less than 10 years old can be permitted to run and utilized by the DTC but only for another period till they become 10 years old. The vehicles which are more than 10 to 13 years old or which are above 10 years old should be replaced immediately by the DTC by new trucks. It is to be noticed that diesel trucks are the serious contributory of the air pollution and as their emissions are more injurious to the human health besides they cause serious ambient air quality deterioration. With the above directions M.A. No. 413 of 2015 stands disposed of. <u>M.A. No. 414 of 2015</u> The Learned counsel appearing for the parties pray for time to seek instruction. List this matter on 20th July, 2016. <u>M.A. No. 420 of 2015</u> The applicant is not present however the prayer made in this application is already covered by the Tribunal, where it has been held that no route is feasible as well as for diversion of traffic at this stage. With the above observations the M.A. No. 420 of 2015 stands disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 502 of 2015</u> We have heard the Learned counsel appearing for the parties. The prayer made in this application is that fire-fighting vehicles, 112 number may be permitted on the road of Delhi which are diesel vehicle. We make it clear that if the diesel fire-fighting vehicles are less than 10 years old they can ply on the Delhi road; if they are more than 10 years age, the Department shall take immediate steps to replace the said vehicle by new vehicles and old vehicles more than 10 years old would either be condemned and or they should be sent outside to the areas where air dispersion is much higher and vehicular density is less. The area are to be identified by the Government in terms of order of the Tribunal. Let the appropriate steps in that now be taken as per the order passed by the Tribunal. With the above directions M.A. No. 502 of 2015 stand disposed of. <u>M.A. No. 618 of 2015</u> Nobody is present on behalf of the Applicant. The application stands dismissed for default of appearance. <u>M.A. No. 631 of 2015</u> This application is for giving list of comprehensive suggestions in relation to vehicular pollution. The same would be considered by the Tribunal when the matter would be finally disposed of. With the above directions M.A. No. 631 of 2015 stands disposed of. No order as to cost. <u>M.A. No. 683 of 2015, M.A. No. 812 of 2015 and M.A. No. 1014 of 2015</u> In view of the order passed in M.A. No. 412 today,

	Item No. 13 to 17 July 18, 2016 ss	this application deserved to be dismissed and is hereby dismissed. No order as to cost. <u>M.A. No. 1015 of 2015</u> Application is allowed subject to just exception the certified copy of the annexures should be filed in due course. With the above directions M.A. No. 1015 of 2015 stands disposed of. <u>MA. No. 1029 of 2015</u> This application is also deserved to be dismissed, in view of the order passed in M.A. No. 412 today. The M.A. No. 1029 of 2015 stands disposed of accordingly. <u>M.A. Nos. 660 of 2016 to 669 of 2016</u> All these application are allowed subject to the conditions that all the tankers are BS-IV compliance and they are less than 10 years of age (it is stated that these are new tankers which are replacing the old tankers). Further these vehicles will only be used for transportation of fuel within the territory of Delhi. We further direct that trucks carrying national permit if they are in excess of 10 years age will not be permitted to use in NCR, Delhi. We further direct the Applicant and all similarly placed persons to gradually phase out all the diesel vehicles which carrying fuel if they are more than 10 years old. The M.A. Nos. 660 to 669 of 2016 stand disposed of accordingly.

Item No. 13 to 17 July 18, 2016 ss	<u>Main Matter</u> The noise pollution arising from horns in the vehicle, and their undue and unlawful use by car drivers even including two wheelers, and the use of pressure horns by the trucks and other heavy vehicles is a source of serious noise pollution in Delhi. It is adversely affecting the noise level in Delhi and even the sound of vehicles is the source of noise pollution particularly DTC Buses. All the concerned authorities need to pay attention to this aspect before the noise level go to an extent where it is not possible to retrieve and bring the noise level to the permissible decibel level. It is also pointed out at the bar that the noise barriers put up on the flyover are in a damaged condition and in a number of flyovers, no sound barrier or walls have been put up at all. In view of the above we direct that no vehicle of any kind plying in NCR, Delhi would be permitted to use pressure horns which are not fixed by the manufacturer of vehicles. Furthermore, we direct that the DDA, NCT, Delhi, DPCC and MoEF to file a detailed affidavits placing on record their suggestions and the methodology that are required to be adopted for controlling this menace, including the directions that should be issued by the MoEF and Central Pollution Control Board for using of horns in Delhi. Ministry of Transport also be issued Notice. Notice returnable on next date of hearing. The two wheelers who are using pressure horn or have removed their silencers should not be permitted to ply on the road on NCR Delhi. The authority would also submit their report stating as to whether the silence zone

	Item No. 13 to 17 July 18, 2016 ss	around school, hospital etc. have been identified in NCT, Delhi or not, if not, a complete and comprehensive proposal for declaring and identifying silence zone should be placed before the Tribunal on the next date of hearing. This matter be listed for further directions on 20th July, 2016, however on other issues we would give a separate date. The Original Application No. 181 of 2013 also be listed on that day. The Ministry of Heavy Industry, Government of India has taken stand that ban on vehicles should not be for period less than 15 years. We find that this contention is de-horse any study carried out by any competent agency. The Learned counsel appearing for the Ministry of Heavy Industry submits that she will place on record complete status report in relation to the viability of electric and hybrid transport system in India. Further, she will also place on record the benefits that the ministry proposes to give to the people who will buy such vehicles. We also direct that in the status report affidavit it will also be stated as to how does the Ministry propose to increase manufacturing of electric and hybrid buses and car in our country to reduce both air and noise pollution. It will also be stated as to what incentive is proposed to be given. Furthermore, it would also be stated in the affidavit as to what benefit will be provided to the persons who wishes to condemn and scrap their old diesel vehicles and petrol cars. The Ministry will issue letter to every Chief Secretary of the State within one week from today stating

Item No. 13 to 17 July 18, 2016 ss	benefits which would be available for condemning old vehicles to the people living in various parts of the country. Response of those State Governments, if received by the Ministry should be placed before the Tribunal and letter should say that Tribunal would hear the matter on merit on next date on their behalf. List this matter on 20th July, 2016. The Learned Counsel appearing for the Municipal Corporation (North and South) submits that there is a typographical error in the previous order dated 11th July, 2016, at line no. 8, it should be 10,000 Sq. Ft. instead of 10,000 Sq. Mtrs. Let the same be corrected in the order dated 11th July, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. Mr. Mukesh Verma, Adv. appearing for the State of Maharashtra and Maharashtra Pollution Control Board submits that he appeared along with Mr. Pinaki Misra, Sr. Adv. on 31st May, 2016, but their appearance could not be marked in the order sheet. Let their appearance be marked in the order dated 31st May, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore)

	Item No. 13 to 17 July 18, 2016 SS	,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)



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

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 414/2015, M.A. NO. 778/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015,
M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A.
NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO.
475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO.
545/2016, M.A. NO. 564/2016, M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO.
690/2016 & M.A. NO. 708/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

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Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant:

Mr. Raj Panjwani, Sr. Adv., Salik Shafique and Ms. Divya Sharma, , Adv.

Dr. Sanjay Kulshrestha, Applicant in person

Respondent No. 1:

Ms. Panchajanya Batra Singh, Adv. For MoEF & CC

Mr. Rajiv Bansal, Mr. Kush Sharma and Mr. Keshav Datta, Adv.

Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Adv. for PWD, Delhi Police and Transport Deptt.

Mr. Naginder Benipal, Adv. for Mr. Anil Soni, AAG

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv.

Mr. Rajul Shrivastava, Adv. MPPCB

Ms. Sakshi Popli, Adv. NDMC

Mr. Soumayajit Pani, Adv. for State of Odisha

Mr. Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Adv.

Mr. Raman Yadav, Adv.

Mr. Atul Jha Adv. for State of Chattisgarh

Mr. Devraj Ashok, Adv. for State of Karnataka

Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Adv.

Mr. Balendu Shekhar and Mr. Akshay Abrol, Mr. Eishan Bahuguna, Adv. for EDMC

Mr. Pinky Anand, ASG, Mr. Rajesh Ranjan, Ms. Somya Rathore and Mr. Balendu Shekhar, Adv. for Ministry of RTH and Ministry of Heavy Industries, MoEF

Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Adv. for Andaman & Nicobar Administration

MR. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Adv.

Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv.

Ms. Puja Kalra, Adv. for NDMC, SDMC

GNCTD

Mr. Pragyan Sharma and Mr. Ravi Kantt, Advs. for State of Mizoram
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. S. Vijayanand, Advs. for State of Manipur
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs.
Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Suryanarayan Singh, AAG
Mr. Narnedner Pal Singh, Adv. Ms. Guneet Khehar, Adv. for Mr. Tarunvir Singh Khehar, Adv. for GNCTD
Mr. Jogy Scaria, Adv. for State of Kerala and SPCB
Mr. Raj Kumar, Adv. Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., CPCB
Mr. Mukesh Verma, Adv. for MPCB
Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad Mr. Arun K. Gupta, LO
Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
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Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
Mr. Jayesh Gaurav, Adv. for JSPCB
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Ms Nandini Gore and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd.M. A. No. 172 of 2016
Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
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Mr. R. Rakesh Sharma and Mr. M. Samy Adv. for State of Tamil Nadu and TNPCB
Mr. Gaurav Kr. Bansal and Ms. Antima Bazaz, Advs. In MA 264/2016
Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
Mr. V.K. Shukla, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs.
Mr. Karan Grover, Adv. for NHAI
Ms. Taruna A. Prasad, Adv. for MoEF
Mrs. Rani chhbra and Ms. Priyanka Samy, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item Nos. 06 to 09 July 20, 2016 HA + A	<u>MAIN MATTERS</u> In continuation of our order dated 18 th July, 2016 we pass the following further directions for appropriate and effective implementation of the directions issued. 1. We make it clear that deregistration of the diesel vehicles, more than 10 years old shall be complied

	Item Nos. 06 to 09 July 20, 2016	with effectively and without default. However, the deregistration authorities are directed to start deregistration with reference to the oldest of the vehicles, in other words at the first step the vehicles which are more than 15 years old would be deregistered and then gradually other vehicles would be deregistered from 15 years to 10 years respectively. 2. All the vehicles which are deregistered in Delhi/NCR would not be permitted to ply in Delhi/NCR. However, the authorities will issue NOC for such vehicles to be registered outside the Delhi/NCR. We further clarify that in terms of the orders of the Tribunal every State has to identify areas where the dispersion of the air is higher and vehicular density is least, if the States have not done it so far we grant last opportunity to the States and the Union Territories to identify such areas and put them on the respective websites. The RTO, Delhi will issue NOC for transfer of these vehicles only for such areas which are identified by the States. 3. The diesel vehicles which are more than 15 years old and are BS I or BS II compliant shall be scraped and no NOC will be issued for transfer of the vehicles. 4. The vehicles which possess national permit, but are covered under the directions of the Tribunal will also not be permitted to ply in Delhi/NCR. However, they would be permitted to by-pass Delhi and follow the routes directly connecting Haryana and Rajasthan or vice-versa. For instance the heavy

	Item Nos. 06 to 09 July 20, 2016	vehicles are being permitted under the orders of the Tribunal from Panipat and Rewari without entering Delhi. 5. We hereby direct NCT/Delhi to take immediate steps for improving and expanding the mass transportation system. It should introduce proper buses which should preferably be run from destination to destination thus making the travel much easier for the commuters. The buses should be of different kinds, including providing buses to the metro stations. All these buses should be CNG buses or hybrid or electric buses. 6. The DDA is hereby directed to provide space to the DTC and the Police for the purpose of parking of Vehicles, including impounded vehicles. We direct the Chief Secretary, Delhi to take up a meeting with the Commissioner of the Delhi, Vice-Chairmen of the DDA and all the Commissioners of the respective Municipal Corporations, NDMC and Delhi Cantonment Board. Meeting will be held within 1 week from today and the report be submitted to the Tribunal. This would identify the land already given by DDA to the authorities for the purpose of parking to DTC or other authorities for parking of running buses as well as impounded vehicles, it would further identify the sites which are required to be provided for that purpose. The scraping benefit including benefit in purchase of new cars, is under the consideration of the Ministry of Heavy Industries. Let the final view in that behalf be taken

	Item Nos. 06 to 09 July 20, 2016	and the same should be widely published to provide new incentives to the public to scrap their old vehicles. It has been termed by the Ministry as “Scraping Policy”. Learned counsel appearing for the NCT/Delhi has brought to our notice that to orders is needed effectively implement the directions of the Tribunal in relation to the use of pressure horns and motor bikes being driven with intolerable sound which are violative of the prescribed norms. Besides challaning the vehicles under the Motor Vehicles Act, action is also to be taken for violation of the conditions of the registration that is violating the original conditions of the vehicle in which it was registered and the fine provided there is more than Rs. 2000, besides challaning the vehicles for traffic offence. We find that the traffic police should implement the directions and take the above action which is in accordance with law, with a greater vigour and sincerity. We further direct that for generating the undue intolerable sound, in violation of the law, also results in noise pollution and is covered under the prescribed norms in the Noise Pollution Rules which have been enacted under the Environment (Protection) Act, 1986, one of the Scheduled Act of the National Green Tribunal Act, 2010. Therefore we direct that in addition to other actions in accordance with law, such offenders would also be liable to pay Environmental Compensation of Rs. 5,000 per violation on the basis of “Polluter Pays Principle”. Let this fine be also collected by the Traffic police and be deposited in a separate account that would be maintained by the Delhi Police or the NCT Delhi as the Chief Secretary of Delhi may decide. In the event of default of the payment of the Environmental

	Item Nos. 06 to 09 July 20, 2016	Compensation, the traffic authority is at liberty to approach the Tribunal by issuing notice to such violator to be present before the Tribunal for the offence. List these matters for hearing on 28th July, 2016. In the meanwhile, liberty is granted to the States to file their response. <u>M.A. No. 414 of 2015</u> In view of the order passed by us above this Application does not survive for consideration. Accordingly, M.A. No. 414 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 778 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 778 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1086 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 1086 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1313 of 2016</u> In view of the order passed by us above this

	Item Nos. 06 to 09 July 20, 2016	Application does not survive for consideration. Accordingly, M.A. No. 1313 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 156 of 2016</u> This is an application with reference to the exemption to be granted to vintage and antique vehicles from the orders of the Tribunal dated 26th November, 2014. Learned counsel appearing for the main Applicant and NCT of Delhi submit that they have some objections in regard thereto. List this matter for hearing on 28th July, 2016. <u>M.A. No. 172 of 2016</u> At the request of the Learned counsel appearing for the parties the matter is adjourned to 28th July, 2016. <u>M.A. No. 211 of 2016</u> Nobody is present on behalf of the Applicant; none was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 211 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 253 of 2016</u> We have heard the Learned counsel appearing for the parties. The Application is allowed limited to the extent that vehicles would be permitted to be registered with the RTO office of Delhi but these buses would not run in NCT of

	Item Nos. 06 to 09 July 20, 2016	Delhi but would ply between its destination point to Kathmandu. To that extent this Application is allowed subject to just exception. Accordingly, M.A. No. 253 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 268 of 2016</u> This Application is filed for postponement of the date of hearing of the matter. The matter is already heard. Therefore this Application does not survive for consideration as having become infructuous. Accordingly, M.A. No. 268 of 2016 stands disposed of without any order as to costs. <u>M.A. Nos. 358 of 2016 and 545 of 2016</u> Prayers in these Applications to run Buses from Meerut to Bulandsahar via Hapur. We allow the prayers of the applicants. But we make it clear that these buses will not enter into Delhi, that is Ghaziabad, Faridabad, Gurgaon, Greater NOIDA and Sonipat. Accordingly, M.A. Nos. 358/2016 and 545/2016 stand disposed of without any order as to costs. <u>M.A. No. 360 of 2016</u> We have heard the Learned counsel appearing for the parties. We clarify that the environmental compensation would be imposed on slab basis. We find that the prayer made in this Application is just and fair and if the offending construction in plot upto 100sq.mt. the

	Item Nos. 06 to 09 July 20, 2016	environmental compensation would be Rs. 10,000/-, if the offending construction is in more than 100 sq. mtr. But upto 200sq.mt., the environmental compensation would be Rs. 20,000/-, if the offending construction is in a plot of more than 200 sq. mt. but less than 500sq. mt. the environmental compensation would be Rs. 30,000/-, while the offending construction is in a plot area of more than 500 sq.mt. the environmental compensation would be Rs. 50,000/- as already directed by the orders of the Tribunal. Wherever the constructed area is more than 20,000 sq. mtr. The environmental compensation would be Rs. 5 Lakhs. This rate will operate prospectively. Accordingly, M.A. No. 360 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 406 of 2016</u> We have heard the Learned counsel appearing for the parties. We direct that all the Authorities in NCT of Delhi including DDA, NDMC, All Municipal Corporation of Delhi and Delhi Cantonment Board that they would ensure that there is no burning of any kind of waste in open or otherwise and for every default occurrence the person would be liable to pay Rs. 5000 /- as environmental compensation to the Officer of the respective Agencies. Even the matter could be reported to Delhi Police also. Accordingly, M.A. No. 406 of 2016 stands disposed of without any order as to costs.

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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Mr. Mukul Singh, Adv. for MoEF.
Mr. Amit Agrawal, Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

	Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. ‘Categorization’ has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

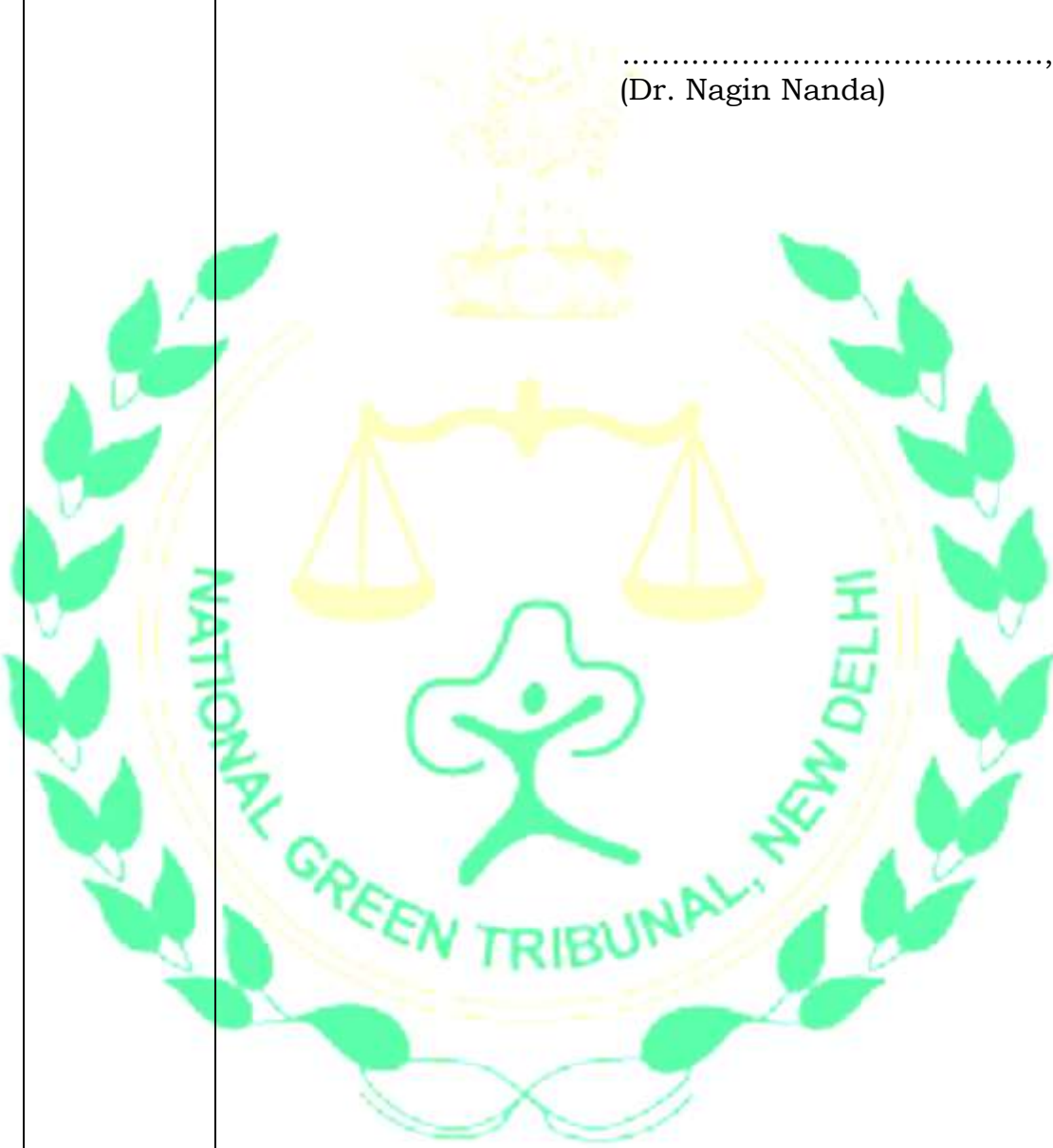
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu g/m^3$ and $PM_{2.5}$ exceeds $600 \mu g/m^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

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

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present:	Applicant:	Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1:		Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
Respondent No. 2:		Ms. Alpana Poddar, Advocate
Respondent No. 4:		Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy.
		Dr. S.D. Singh, CEO Parks and Garden Society
		Mr. Kush Sharma, Adv. for DDA
		Ms. Puja Kalra, Adv. for South and North MCD
		Ms. Savitri Pandey, Adv.
		Mr. Balendu Shekhar, Adv. for EDMC
		Mr. Sanjiv Verma, IAS, Director Environment
		Mr. P.C. Meena, IAS, Administrator, HUDA
		Mr. Mahavir Singh, HCS, Addl. Transport Commissioner
		Dr. Yadav, Chief Engineer, ULB Haryana
		Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO
		Ms. Bano Deswal, AAG Haryana
		Mr. Ardhendumauli Kumar Prasad, Adv.
		Mr. B.V. Niren and Prasouk Jain, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnendra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF
2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava
and Mr. Salik Shafique, Advs.
Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for
MoEF
Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms.
Arpita, Advs. for DDA.
Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Rahul Mehra, Adv. and Mr. Zubeda Begum,
standing counsel for GNCTD, Civil
Ms. Savitri Pandey and Ms. Azma Paven, Adv.
Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Adv.
Mr. Narender Pal Singh, Adv. and Mr. Dinesh
Jindal, LO, DPCC

	Date and Remarks	Orders of the Tribunal
	Upon mentioning April 13, 2015	This matter taken upon mentioning The Learned Counsel appearing for the NCT, Delhi, MoEF, other Ministries and even other Learned Counsel appearing for state stakeholders raised a contention is that the prohibitory orders of the NGT in relation to the 10 years old diesel vehicles are causing serious concern and practical difficulties to the Government and Authorities. It is specifically being stated that NCT, Delhi has regards for entire provisions of the order and the concerned

	Government has taken policy decision on order of the Tribunal. However, they seek some time to enable the authority to effectively comply with the directions therein. We appreciate the initiative and responses of the Government of Delhi and other concerned state Governments to provide cleaner air and better environmental life. We find some substance in the submission made on behalf of various Government and authorities and the stakeholders. We may notice that by our orders dated 28th November, 2014, 01st December and even passed subsequently we had repeatedly asked the state Government, Central Government and other public authorities to submit their suggestions on data furnished for preventing and controlling air pollution and places for restoring of ambient air quality of Delhi. Unfortunately we received no suggestion. In the larger public interest and to ensure public utility services and keeping in mind the submissions made by the Learned counsel particularly for NCT, Delhi who shall mainly get adversely affected due to impounding of diesel vehicle of more than 10 years old and to ensure that the common citizen of Delhi does not suffer in day to day life, we pass the following directions :- 1. These direction are to be read in conjunction with and not in the derogation of the earlier orders passed by the Tribunal except to the limitation and extent stated hereinafter. a. The Ministry of Surface Transport, MoEF, Urban Development, Ministry of Petroleum, Union of India, NCT, Delhi and other authority concerned should submit to the Tribunal

		within two weeks from today, their complete reasoned and scientifically supported views Inter alia but mainly on the following views by way of affidavits to be filed by the person not less than Additional Secretary, in the case of Central Government, and Secretary of the concerned department in NCT, Delhi and public authorities. i. Age of all vehicles to be permitted to run in NCT, Delhi with reference to all sources of energy/fuel. ii. Cap on the No. of vehicles to be registered in the NCR, Delhi with reference to sources of energy/fuel. iii. Incentive to be provided to the members of public who adopt pool commutation/travel. iv. Benefits or concessions that can be provided to the transferor/transferee of the vehicle which are prohibited to run in NCR, Delhi, on the roads of NCT, Delhi. v. It should be kept in mind that vehicles are prohibited because of high density of traffic and greater pollution are likely to be shifted to the places of lesser density of vehicles and lesser pollution because of the expanse of air available and openness available there. vi. Concession/benefits which would be available to the person who scrap his vehicle as a result of any or all of the

		restriction in terms or order of the Tribunal and law in force. vii. Public transport vehicles to be provided on priority at all the places which have high commercial activities, markets or industrial areas. viii. Wherever parking area or multi-storied parking have been provided rationalisation of parking charges to encourage people to park in such parking areas and not on the main road. ix. Imposition of higher registration and other charges including congestion charges particularly in relation to the owner of the vehicle who possesses for himself and for family more than one vehicle. b. Research to be conducted to find out suitable converters for emissions from vehicles and beneficial use of energy for running cars. c. Steps are required to be taken for ensuring quality of emissions released directly by Government major projects like Indraprastha, Bhadra and Raj Ghat, Thermal Power Project and even other major plants run by the Government and instrumentalities of the Government within the standards prescribed by law. 2. Suggestions as to how the air pollution in Delhi can be checked immediately and the method by which ambient air quality of Delhi can be restored to clean

	air standards. We may notice that during the hearings in the last 6 months we had asked for the suggestions and comments on all these issues without much result. We do hope that all the Government and concerned stakeholders will respond on these issues without default and delay within the prescribed time. During the period of two weeks that we have provided to all the concerned authorities there shall be impounding of vehicles on account of age. In furtherance to our earlier orders we make it clear that we are varying our directions only to this limited extent. However, all vehicles shall be subject to prescribed pollution check and other environmental norms. Suggestions shall also be given by the Central Pollution Control Board and Delhi Pollution Control Committee together. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)
And
Original Application No. 21/2014**

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And**

**Sanjay Kulshrestha Vs. Union of India & Ors.
And**

**Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And**

**Diya Kapur & Ors. Vs. Union of India & Ors.
And**

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

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Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than 61 µg/m³ and less than 90 µg/m³ of PM_{2.5} and PM₁₀ is more than 101 µg/m³ and less than 250 µg/m³. Similarly, the other States have also provided different prescribed value. We may notice that value of PM₁₀ is 100 µg/m³ while the PM_{2.5} is 60 µg/m³. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO₂, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM₁₀ at 100 mg and PM_{2.5} at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. ‘Categorization’ has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

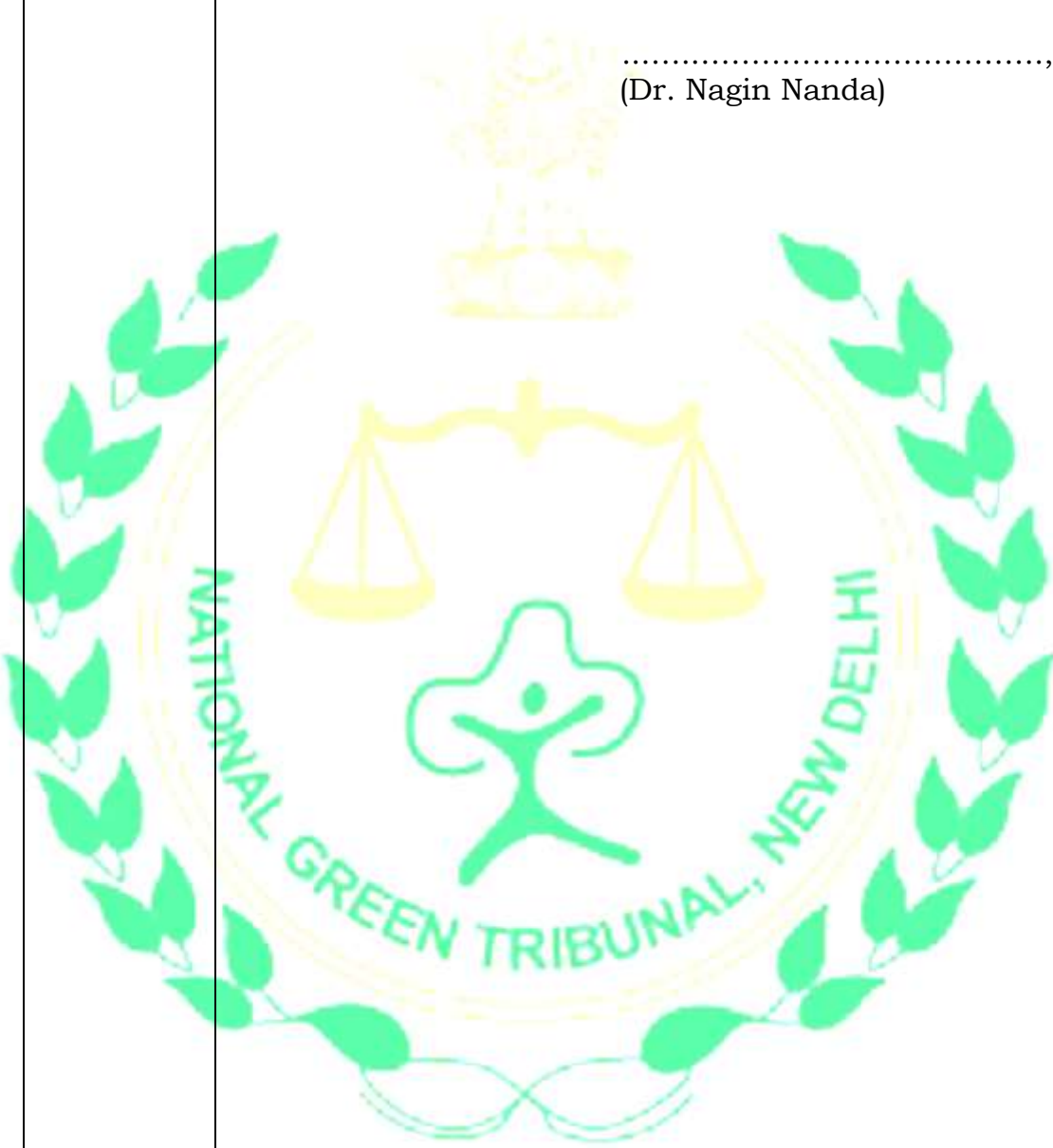
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu g/m^3$ and $PM_{2.5}$ exceeds $600 \mu g/m^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

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

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1:		Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
Respondent No. 2:		Ms. Alpana Poddar, Advocate
Respondent No. 4:		Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy.
		Dr. S.D. Singh, CEO Parks and Garden Society
		Mr. Kush Sharma, Adv. for DDA
		Ms. Puja Kalra, Adv. for South and North MCD
		Ms. Savitri Pandey, Adv.
		Mr. Balendu Shekhar, Adv. for EDMC
		Mr. Sanjiv Verma, IAS, Director Environment
		Mr. P.C. Meena, IAS, Administrator, HUDA
		Mr. Mahavir Singh, HCS, Addl. Transport Commissioner
		Dr. Yadav, Chief Engineer, ULB Haryana
		Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO
		Ms. Bano Deswal, AAG Haryana
		Mr. Ardhendumauli Kumar Prasad, Adv.
		Mr. B.V. Niren and Prasouk Jain, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforestated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

**ORIGINAL APPLICATION NO.21 OF 2014
(M.A NO. 155/2015, M.A NO. 284/2015, M.A NO. 394/2015, M.A NO.
412/2015 TO M.A NO. 414/2015, M.A. NO. 420/2015, M.A NO.
482/2015, M.A NO. 502/2015, M.A NO. 618/2015, M.A NO. 631/2015,
M.A NO. 683/2015, M.A. NO. 778/2015 & M.A. NO. 812/2015)**

AND

Original Application No. 95 of 2014

And

Original Application No. 303 of 2015

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE Mr. RANJAN CHATTERJEE, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present: Applicant:	Mr. Sanjay Upadhyay and Mr. Salik Shafique, Advs. and Mr. Vardhman Kaushik, Adv. - in Person
Respondent No. 1:	Ms. Panchajanya Batra Singh, Adv. For MoEF & CC
Respondent No. 2 to 6 :	Mr. Ardhendumauli Kr. Prasad, Adv. & For MoUD & MoPNG Narender Pal Singh, Adv. and Mr. Dinesh Jindal, SLO For DPCC and for GNCT Environment Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi Mr. Sandeep Goel, Jt. CP (Traffic), Transport Department & Mr. Harindar K. Singh, DCP (Traffic) Mr. Nishant Gautam & Mr. Sayeed Musam, Adv. for Petitioner Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Rajesh Ranjan and Ms. Somya Rathore, Adv. Mrs. Avnish Ahlawat and Mr. Nitesh Kumar Singh, Adv. For DTC/SIBU along with Mr. C.L. Garg, MD, DTC, Shri R.K. Kasana, CGM (Technical & Traffic) and Mr. M.K. Sharma, Addl. CGM Mr. Kabir S. Bose, Mr. Saakaar Sardana and Ms. Surabhi Sardana, Advs. For WB state and WB PCB Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P. Mr. Jayesh Gaurav, Adv. For State of Jharkhand & JSPCB Mr. Atul Jha, Adv. for State of Chhattisgarh Mr. Jogya Scaria and Mr. Reegansbel, Adv. for State of Kerala Mr. Rajiv Bansal and Mr. Kush Sharma, Adv. (DDA) Ms. Aruna Mathur and Mr. Avneesh Arputham, Adv. For State of Sikkim

Mr. Sapam Biswajit Meitei, Mr. Kalyani Goswami and Mr. S. Vijayanand Sharma, Advs. for State of Manipur

Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Advs. for State of Bihar and BSPCB

Mr. K.V. Jagdishvaran and Mrs. G. Indira, Advs. For UT of Andaman & Nicobar Islands Administration

Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.

Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana

Ms. K. Enatoli Sema, Adv. State of Nagaland

Mr. Atmaram N.S. Nadkarni, Advocate General, Goa with Ms. Purna Bhandari, Mr. Amogh V. Prabhudesai and Mr. S.S. Robello, Advs. for State of Goa and GSPCB

Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for EDMC

Mr. Apoorva Misra, Adv. and Ms. Pallavi Mohan, Advs. For BRPL and BYPL

Mr. Saurav Agrawal and Mr. Abhijit Mitra, Adv. for IGL

Ms. Sakshi Popli, Adv. for NDMC

Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation

Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram

Mr. Sunil Satayarth, Adv. For Delhi Cantonment Board

Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu and Mr. Kaushik for NHAI

Mr. Akshat Kulshreshta and Mr. Raj Kamal, Advs.

Mr. Gopal Singh, AOR and Mr. Varsha Poddar, Adv. for State of Tripura

Ms. Nupur Kanungo and Ms. Hemantika Wahi, Advs. For State of Gujarat

Mr. Dinesh Kumar Garg, AOR and Mr. Dhananjay Garg, Adv. for State of Uttarakhand
Shiv Mangal Sharma, AAG with Ms. Shrey Kapoor and Mr. Saurabh Raput, Adv. for State of Rajasthan

Ms. Vanita Bhargava and Ms. Kudvat Dev., Adv. for Container Corp. of India

Present: **Applicant:**
Respondent No.1:
Respondent Nos.2to6:

Mr. Vikas Malhotra and Mr. M.P. Sahay, Advs.

Mr. Ardhendumauli Kr. Prasad, Adv. & For MoUD & MoPNG

Mr. Rahul Choudhary, Adv. for Conservation Action Trust for Intervenor

Respondent No. 9: Mr. Kabir S. Bose, Mr. Saakaar Sardana and Ms. Surabhi Sardana, Advs.

Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu

Mrs. K. Enatoli Sema, Adv. for State of Nagaland

Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.

Mrs. Pinky Anand, ASG, Mr. T.S. Sidhu and Mr. Kaushik, Advs.

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana

Mr. Sunil Satayarth, Adv. For Delhi Cantonment Board

Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB

Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh

Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram

Original Application No. 303 of 2015

Present: Applicant:

Respondent No.1:

Ms. Bhakti Pasrija Sethi, Ms. Prerna Kumari and Ms. Mamta Ravi, Advs.
Mr. Vishwedra Verma, Adv for MoEF
Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv.

	Date and Remarks	Orders of the Tribunal
	Item Nos. 19 to 21 August 24, 2015	The Managing Director, DTC is present in person. He assured the Tribunal that he will initiate a data based study to rationalise plying of DTC Buses and to ensure that they cause least congestion on the road and help keep the air and noise pollution under control. He further submits that he would take personal interest to ensure that maintenance work of DTC is carried on or the contractors to whom work is assigned shall carry on in its true spirit and all the buses shall be well maintained. The Learned Counsel appearing for DDA submits that they have engaged M/s. Tata Motors Ltd. and M/s. Ashok Leyland for manufacturing of Buses including its design and maintenance. Let notice be issued to the said companies through their Managing Directors. Notice returnable on 08th September, 2015. Mr. Sandeeo Goel, Joint Commissioner, traffic and Mr. Harender Kumar Singh, DCP, Traffic are present. They have submitted a status report which is founded on the suggestions made in the year 2002. The current status of traffic particularly heavy traffic of transport vehicles passing through Delhi, is very different. He submits that he will have a fresh look and submit a map suggesting alternative routes as a temporary measure to reduce

	pressure of the heavy vehicle traffic or transport traffic upon Delhi till the time Western and Eastern highways are operationalised. We appreciate all the efforts which the officers are proposing to make. Liberty granted. The Learned Counsel appearing for the State of Haryana is present. We direct that the concerned senior officer from the State of Haryana, Uttara Pradesh and Rajasthan would also to be present in the meeting and they would jointly suggest interim measures to achieve the above object. They would also suggest measures to counter the bottlenecks and other obstructions that are in existence on the suggested alternative routes. This meeting would be held within one week from today. Joint Commissioner Pollice, Traffic will be the Nodal Officer. List this matter for remaining directions on 25th August, 2015. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Ranjan Chatterjee)

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

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 414/2015, M.A. NO. 778/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015,
M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A.
NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO.
475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO.
545/2016, M.A. NO. 564/2016, M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO.
690/2016 & M.A. NO. 708/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: **Applicant:** Mr. Raj Panjwani, Sr. Adv., Salik Shafique and Ms. Divya Sharma, , Adv.
Dr. Sanjay Kulshrestha, Applicant in person
Respondent No. 1: Ms. Panchajanya Batra Singh, Adv. For MoEF & CC
Mr. Rajiv Bansal, Mr. Kush Sharma and Mr. Keshav Datta, Adv.
Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Adv. for PWD, Delhi Police and Transport Deptt.
Mr. Naginder Benipal, Adv. for Mr. Anil Soni, AAG
Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv.
Mr. Rajul Shrivastava, Adv. MPPCB
Ms. Sakshi Popli, Adv. NDMC
Mr. Soumayajit Pani, Adv. for State of Odisha
Mr. Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Adv.
Mr. Raman Yadav, Adv.
Mr. Atul Jha Adv. for State of Chattisgarh
Mr. Devraj Ashok, Adv. for State of Karnataka
Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Adv.
Mr. Balendu Shekhar and Mr. Akshay Abrol, Mr. Eishan Bahuguna, Adv. for EDMC
Mr. Pinky Anand, ASG, Mr. Rajesh Ranjan, Ms. Somya Rathore and Mr. Balendu Shekhar, Adv. for Ministry of RTH and Ministry of Heavy Industries, MoEF
Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Adv. for Andaman & Nicobar Administration
MR. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Adv.
Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv.
Ms. Puja Kalra, Adv. for NDMC, SDMC

GNCTD

Mr. Pragyan Sharma and Mr. Ravi Kantt, Advs. for State of Mizoram
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. S. Vijayanand, Advs. for State of Manipur
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs.
Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Suryanarayan Singh, AAG
Mr. Narnedner Pal Singh, Adv. Ms. Guneet Khehar, Adv. for Mr. Tarunvir Singh Khehar, Adv. for GNCTD
Mr. Jogy Scaria, Adv. for State of Kerala and SPCB
Mr. Raj Kumar, Adv. Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., CPCB
Mr. Mukesh Verma, Adv. for MPCB
Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad Mr. Arun K. Gupta, LO
Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
Mr. Dileep Poolakkot, Adv. for State of Goa
Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
Mr. Jayesh Gaurav, Adv. for JSPCB
Ms. Priyanka Sinha and Mr. Shridhar Sawrup, Advs. for State of Jharkhand
Ms. Varsha Poddar advs. for State of Tripura
Ms Nandini Gore and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd.M. A. No. 172 of 2016
Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
Mr. Sandeep Narain and Ms. Khushboo, Advs.
Ms. Diksha Sharma, Adv. for Mr. Muzzaffr Khand s/o Ayyab Khan
Mr. Shiv Mangal Sharma, AAG, Mr. Adhiraj Singh and Mr. Sarurabh Rajpal, Advs. for Rajasthan PCB
Mr. R. Rakesh Sharma and Mr. M. Samy Adv. for State of Tamil Nadu and TNPCB
Mr. Gaurav Kr. Bansal and Ms. Antima Bazaz, Advs. In MA 264/2016
Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
Mr. V.K. Shukla, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs.
Mr. Karan Grover, Adv. for NHAI
Ms. Taruna A. Prasad, Adv. for MoEF
Mrs. Rani chhbra and Ms. Priyanka Samy, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item Nos. 06 to 09 July 20, 2016 HA + A	<u>MAIN MATTERS</u> In continuation of our order dated 18 th July, 2016 we pass the following further directions for appropriate and effective implementation of the directions issued. 1. We make it clear that deregistration of the diesel vehicles, more than 10 years old shall be complied

	Item Nos. 06 to 09 July 20, 2016	with effectively and without default. However, the deregistration authorities are directed to start deregistration with reference to the oldest of the vehicles, in other words at the first step the vehicles which are more than 15 years old would be deregistered and then gradually other vehicles would be deregistered from 15 years to 10 years respectively. 2. All the vehicles which are deregistered in Delhi/NCR would not be permitted to ply in Delhi/NCR. However, the authorities will issue NOC for such vehicles to be registered outside the Delhi/NCR. We further clarify that in terms of the orders of the Tribunal every State has to identify areas where the dispersion of the air is higher and vehicular density is least, if the States have not done it so far we grant last opportunity to the States and the Union Territories to identify such areas and put them on the respective websites. The RTO, Delhi will issue NOC for transfer of these vehicles only for such areas which are identified by the States. 3. The diesel vehicles which are more than 15 years old and are BS I or BS II compliant shall be scraped and no NOC will be issued for transfer of the vehicles. 4. The vehicles which possess national permit, but are covered under the directions of the Tribunal will also not be permitted to ply in Delhi/NCR. However, they would be permitted to by-pass Delhi and follow the routes directly connecting Haryana and Rajasthan or vice-versa. For instance the heavy

	Item Nos. 06 to 09 July 20, 2016	vehicles are being permitted under the orders of the Tribunal from Panipat and Rewari without entering Delhi. 5. We hereby direct NCT/Delhi to take immediate steps for improving and expanding the mass transportation system. It should introduce proper buses which should preferably be run from destination to destination thus making the travel much easier for the commuters. The buses should be of different kinds, including providing buses to the metro stations. All these buses should be CNG buses or hybrid or electric buses. 6. The DDA is hereby directed to provide space to the DTC and the Police for the purpose of parking of Vehicles, including impounded vehicles. We direct the Chief Secretary, Delhi to take up a meeting with the Commissioner of the Delhi, Vice-Chairmen of the DDA and all the Commissioners of the respective Municipal Corporations, NDMC and Delhi Cantonment Board. Meeting will be held within 1 week from today and the report be submitted to the Tribunal. This would identify the land already given by DDA to the authorities for the purpose of parking to DTC or other authorities for parking of running buses as well as impounded vehicles, it would further identify the sites which are required to be provided for that purpose. The scraping benefit including benefit in purchase of new cars, is under the consideration of the Ministry of Heavy Industries. Let the final view in that behalf be taken

	Item Nos. 06 to 09 July 20, 2016	and the same should be widely published to provide new incentives to the public to scrap their old vehicles. It has been termed by the Ministry as “Scraping Policy”. Learned counsel appearing for the NCT/Delhi has brought to our notice that to orders is needed effectively implement the directions of the Tribunal in relation to the use of pressure horns and motor bikes being driven with intolerable sound which are violative of the prescribed norms. Besides challaning the vehicles under the Motor Vehicles Act, action is also to be taken for violation of the conditions of the registration that is violating the original conditions of the vehicle in which it was registered and the fine provided there is more than Rs. 2000, besides challaning the vehicles for traffic offence. We find that the traffic police should implement the directions and take the above action which is in accordance with law, with a greater vigour and sincerity. We further direct that for generating the undue intolerable sound, in violation of the law, also results in noise pollution and is covered under the prescribed norms in the Noise Pollution Rules which have been enacted under the Environment (Protection) Act, 1986, one of the Scheduled Act of the National Green Tribunal Act, 2010. Therefore we direct that in addition to other actions in accordance with law, such offenders would also be liable to pay Environmental Compensation of Rs. 5,000 per violation on the basis of “Polluter Pays Principle”. Let this fine be also collected by the Traffic police and be deposited in a separate account that would be maintained by the Delhi Police or the NCT Delhi as the Chief Secretary of Delhi may decide. In the event of default of the payment of the Environmental

	Item Nos. 06 to 09 July 20, 2016	Compensation, the traffic authority is at liberty to approach the Tribunal by issuing notice to such violator to be present before the Tribunal for the offence. List these matters for hearing on 28th July, 2016. In the meanwhile, liberty is granted to the States to file their response. <u>M.A. No. 414 of 2015</u> In view of the order passed by us above this Application does not survive for consideration. Accordingly, M.A. No. 414 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 778 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 778 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1086 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 1086 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1313 of 2016</u> In view of the order passed by us above this

	Item Nos. 06 to 09 July 20, 2016	Application does not survive for consideration. Accordingly, M.A. No. 1313 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 156 of 2016</u> This is an application with reference to the exemption to be granted to vintage and antique vehicles from the orders of the Tribunal dated 26th November, 2014. Learned counsel appearing for the main Applicant and NCT of Delhi submit that they have some objections in regard thereto. List this matter for hearing on 28th July, 2016. <u>M.A. No. 172 of 2016</u> At the request of the Learned counsel appearing for the parties the matter is adjourned to 28th July, 2016. <u>M.A. No. 211 of 2016</u> Nobody is present on behalf of the Applicant; none was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 211 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 253 of 2016</u> We have heard the Learned counsel appearing for the parties. The Application is allowed limited to the extent that vehicles would be permitted to be registered with the RTO office of Delhi but these buses would not run in NCT of

	Item Nos. 06 to 09 July 20, 2016	Delhi but would ply between its destination point to Kathmandu. To that extent this Application is allowed subject to just exception. Accordingly, M.A. No. 253 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 268 of 2016</u> This Application is filed for postponement of the date of hearing of the matter. The matter is already heard. Therefore this Application does not survive for consideration as having become infructuous. Accordingly, M.A. No. 268 of 2016 stands disposed of without any order as to costs. <u>M.A. Nos. 358 of 2016 and 545 of 2016</u> Prayers in these Applications to run Buses from Meerut to Bulandsahar via Hapur. We allow the prayers of the applicants. But we make it clear that these buses will not enter into Delhi, that is Ghaziabad, Faridabad, Gurgaon, Greater NOIDA and Sonipat. Accordingly, M.A. Nos. 358/2016 and 545/2016 stand disposed of without any order as to costs. <u>M.A. No. 360 of 2016</u> We have heard the Learned counsel appearing for the parties. We clarify that the environmental compensation would be imposed on slab basis. We find that the prayer made in this Application is just and fair and if the offending construction in plot upto 100sq.mt. the

	Item Nos. 06 to 09 July 20, 2016	environmental compensation would be Rs. 10,000/-, if the offending construction is in more than 100 sq. mtr. But upto 200sq.mt., the environmental compensation would be Rs. 20,000/-, if the offending construction is in a plot of more than 200 sq. mt. but less than 500sq. mt. the environmental compensation would be Rs. 30,000/-, while the offending construction is in a plot area of more than 500 sq.mt. the environmental compensation would be Rs. 50,000/- as already directed by the orders of the Tribunal. Wherever the constructed area is more than 20,000 sq. mtr. The environmental compensation would be Rs. 5 Lakhs. This rate will operate prospectively. Accordingly, M.A. No. 360 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 406 of 2016</u> We have heard the Learned counsel appearing for the parties. We direct that all the Authorities in NCT of Delhi including DDA, NDMC, All Municipal Corporation of Delhi and Delhi Cantonment Board that they would ensure that there is no burning of any kind of waste in open or otherwise and for every default occurrence the person would be liable to pay Rs. 5000 /- as environmental compensation to the Officer of the respective Agencies. Even the matter could be reported to Delhi Police also. Accordingly, M.A. No. 406 of 2016 stands disposed of without any order as to costs.

	Item Nos. 06 to 09 July 20, 2016	<u>M.A. No. 567 of 2016</u> List this matter for arguments on 28th July, 2016. <u>M.A. No. 708 of 2016</u> This application is for placing additional documents on record and has been filed on behalf of the Department of Heavy Industries, Government of India. There is no objection to these applications, the Application is allowed subject to just exception. Let the documents be furnished to all the parties appearing in the case during the course of the day. Accordingly, M.A. No. 708 of 2016 stands disposed of without any order as to costs. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore) ,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)

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

**Original Application No. 21/2014
And**

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

**Original Application No. 303/2015
And**

**Original Application No. 609 /2016
And**

Original Application No. 179 of 2016

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And**

**Sanjay Kulshrestha Vs. Union of India & Ors.
And**

**Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And**

**Diya Kapur & Ors. Vs. Union of India & Ors.
And**

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay, Adv. Ms. Upama Bhattacharjee and Mr. Saumitra Jaiswal, Adv.
Mr. V. Shekhar, Sr. Adv, Mr Arun K. Shukla, Mr. Sumit Sinha and Mr. Shashank, adv for UFLEX
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv. for State of Uttarakhand
Mr. Raman Yadav, Adv. for GDA
Mr. Amit Agarwal, Ms Asha Basu, Adv. for WBPCB
Dr. Dipankar Saha Addl. Director Central Pollution Control Board
Mr. I. K. Kapila, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv
Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Adv. for State of West Bengal
Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA
Mr. A.K. Prasad and Mr. Shashank Saxena, Adv. for MoPNG
Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
Ms. Sakshi Popli, Adv. and Pritaka, Adv for NDMC
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA for Central Pollution Control Board
Mr. Mukesh Verma and Mr. Pawan Kr. Shukla, Adv.
Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Rajiv Bansal, Sr. Adv, Mr. Kush Sharma and Mr. Lalit Mohan, Adv. for Delhi Development Authority
Mr. Archit Sharma, Ms. Satamita Ghosh and Mr. Rahul Singhal, Adv.
Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, , and Ms. Simran Jeet, Adv. For State of Sikkim & Pollution Control Board
Dr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
Mr. Anchit Sharma, Mr. Adit Pratap Singh and Mr. Dipankar Wadhwa, Adv.
Mr. Om Prakash, Adv. for Railways
Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoineithiam Adv. For Nagaland.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam.
Mr. Gautam Singh, Mr. Rudreshwar Singh Adv. for BSPCB
Mr. Gautam Singh and Mr. Sohoeab Alam, Adv. for State of Bihar
Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. Mr. Rajkumar Maurya for East Delhi Municipal Corporation
Mr. Surekh Kant, Adv for Mr. Ashish Rana, Adv
Mr. Shiv Mangal Sharma (AAG), Ms. Shikha Sandhu & Mr. Saurabh Rajpal, Adv. for State of Rajasthan and RSPCB
Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & G Indira, Adv. for UT of Admanan and Nicobar Administration
Mr. Naginder Benipal, PPCB
Dr. Sandeep Singh, Adv., Mr. Utkarsh Sharma and. for State of Uttar Pradesh
Mr. D. Rajeshwar Rao, and Mr. Abhinav Srivastava, Adv. for Delhi Police with Mr. Vijay Singh DCP Traffic
Ms. Puja Kalra, Adv. for SDMC
Mr. Keshav Chandra, Secretary, GNCTD, Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee, Dr. M P George, Sr. Secretary, Mr. Dinesh Jindal, L.O. Delhi Pollution Control Committee, Dr. Anil Kumar, Director, GNCTD

Date and Remarks	Orders of the Tribunal
Item No. 01 to 05 November 11, 2017 SS & RP	We have heard the Learned counsel appearing for various stakeholders, applicants including the NCT Delhi, Central Pollution Control Board, Delhi Pollution Control Committee and the Learned counsel appearing for all the Pollution Control Boards of the State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab. It is fairly conceded before us by the Scientists of the Central Pollution Control Board and Delhi Pollution Control Committee and all the officers from the different boards and the officers of the NCT Delhi that rain would result in automatic fall in pollutants level of the ambient air quality. They state that the sprinkling of water thus is one of the best means to reduce the pollutants in case of environment emergency. They also submit that diesel vehicles and two wheelers/two stoke engines are much

	Item No. 01 to 05 November 11, 2017 SS & RP	more serious contributors of air pollution rather than the petrol operated cars. According to the Central Pollution Control Board, vehicular pollution contributes nearly 20% of the total air pollution load in NCT Delhi and out of these 20% the 30% contributions is by two wheelers. Accordingly to them firstly the two wheelers are much more in number than other class of vehicles and secondly they emit serious pollutants like Carbon Monoxide and Hydro Carbon which are not emitted or negligibly emitted by the petrol vehicles. It is further stated that the structural construction activities, carriage of construction material and burning of waste and crop residue are the other major components of air pollution in Delhi and NCR. The Learned counsel appearing for the NCT Delhi has submitted that in furtherance to the recommendation of Graded Response Action Plan (GRAP) and the judgment of the Tribunal, the Government of NCT Delhi is committed to implement odd-even scheme and it has also been directed by the Hon'ble High Court of Delhi in its order dated 09th November, 2017. He further submits that there should be a greater cooperation and coordination between the various Local Authorities, Executing Departments and Police for effective implementation of the directions issued by the Tribunal as well as the notification issued by the Central Government requiring NCT Delhi to implement GRAP. It is further stated that under GRAP, the odd and even scheme should be implemented automatically whenever PM_{10} and $PM_{2.5}$ increases $500 \mu g/m^3$ and $300 \mu g/m^3$

Item No. 01 to 05 November 11, 2017 SS & RP	respectively for 48 hours. In other words, it is a measure which has to be taken as a part of complete mechanism provided for prevention and control of ambient air quality not only when there is environmental emergency or values are very severely bad. The precautionary principle places obligations upon all the Authorities including the Statutory Boards to anticipate extent and damage by adversely and highly polluted ambient air quality and should take precautionary and remedial measures at the appropriate stage and not wait for the crises to come. It is correctly said that prevention and precaution is a better remedy than dealing with the situation posing crises. It is emphasized by the Learned counsel appearing for the NCT Delhi that they are very sincere and would implement scheme in regard to the above notification and directions of the Tribunal and would not leave it optional. The compliance of law, particularly, where it serves the public interest and more so right to decent and clean environment which is a fundamental right of citizen. All other contentions must tilt in favour of achieving this goal rather than bringing excuses which would cause environmental degradation and damage to public health. The principle of inter-generational equity requires the present generation and particularly the State and its instrumentalities to ensure compliance with the directions which are aimed at protecting environment and public health. In this background and particularly the fact that the Scientist and Expert from various Boards, Organizations and Departments are add-idem that we

	Item No. 01 to 05 November 11, 2017 SS & RP	proceed to pass the following directions:- 1. The NCT Delhi would be free to implement ‘Odd and Even’ scheme as declared by it, but strictly subject to the condition that we state hereinafter. In terms of the notifications, orders of the courts, Tribunal and GRAP, as and when the PM₁₀ and PM_{2.5} crosses values of 500 µg/m³ and 300 µg/m³ respectively, it shall be mandatory for NCT Delhi and all its Government Departments to implement odd and even without default and it shall not be optional for any officer of the Government or institutions to avoid these directions and non-compliance of notification. There shall be no exemption to any person, officer and individual and the two wheelers from the ambit and scope of odd and even scheme. They will be applied with equal rigour to all cases and all vehicles. However, the vehicles which are CNG operated would be saved from the implementation of odd and even scheme. The only vehicle which will be granted exemption are the vehicle which are used for emergent services like vehicles carrying municipal solid waste, Ambulance, Fire Brigades and Vehicles meant for carrying on emergent repair of electricity, other public services and the Government Vehicles of the dignitaries that has been granted exemption by the Grovernment. Every entry point of Delhi shall be properly

Item No. 01 to 05 November 11, 2017 SS & RP	managed by concerned department of NCT Delhi and the Police to ensure that there are no traffic jams on the borders of NCT of Delhi. All the State Governments i.e. State of Rajasthan, State of Haryana and State of Uttar Pradesh shall depute special force at the borders of NCT Delhi to ensure that no inconvenience is caused and congestions are avoided with aim to control air pollution even at those points. 2. All the private transporters who are granted permits by the respective State Governments and NCT of Delhi shall during this emergency period and implementation of odd-even scheme would provide CNG buses in co-ordination with the Department of Transport and NCT of Delhi for carriage of passengers from different parts of NCT of Delhi to the central points, free of charges in discharge of their corporate social responsibility as they are the beneficiaries of the State's Largesse. It will be free for NCT of Delhi Department to issue such direction and demanding requisite number of buses keeping in view the fleet of buses for which permission has been granted and to which it will be in proper proportions. 3. The DTC shall make every effort to ensure that all the buses it procures are CNG buses and the same are utilized for public transportation during the operation of odd-even scheme. 4. Since it is commonly agreed and all the parties and stakeholders are ad-idem that sprinkling of water is

	Item No. 01 to 05 November 11, 2017 SS & RP	a substantial solution for reducing the pollution level in the ambient air quality in emergent situation, we direct that the same shall be implemented without default and delay in future and even during the coming week unless it rains by tomorrow or day after as per the reports of the metrological department. But we make it clear that no economic constraints ground will be entertained as a defense to sprinkling of water if the pollution levels rise beyond PM_{10} - $700 \mu g/m^3$ and $PM_{2.5}$ - $400 \mu g/m^3$. We constitute a team of :- - Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport; - Mr. K.K. Dhaiya, Spl. Commissioner, Transport; - Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee and Spl. Secretary, Environment; - Dr. Deepankar Shah, Additional Director, Central Pollution Control Board; - Dr. Prashant Gargava, Additional Director, Central Pollution Control Board; - Dr. M.P. George, Scientist 'D', Delhi Pollution Control Committee Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport will be the Chairperson of the Committee. 5. This committee shall, from today onwards, collect the data of ambient air quality which shall be tested at least for 8 parameters including PM_{10}, $PM_{2.5}$,

Item No. 01 to 05 November 11, 2017 SS & RP	Carbon Monoxide, Ozone, Ammonia, SO₂, NO₂ and Lead. A due compilation of at least two samples a day during the peak hours shall be maintained by this Committee continuously for a period of 10 days. We direct all these samples shall be analyzed at the laboratory of the Central Pollution Control Board and IIT Delhi. 6. Besides collecting the data from the ambient air quality stations analyzed by the authorities/ Central Pollution Control Board, ambient air quality samples would be collected and subjected to analyze in both these laboratories and report submitted to the Tribunal on the next date of hearing. 7. Despite direction of the Tribunal and the orders of the NCT of Delhi, still construction activities have been noticed in various complexes. It is brought to our notice that NHAI has been carrying on heavy earthmoving and construction activity at the crossing of turning of CWG Complex near Akshardham, construction work is going on at the NBCC project at Kidwai Nagar and this fact is not disputed. We issue notice to show cause to both these organizations as to why the exemplary fine/ cost be not imposed upon them and also why the Tribunal should not direct the officer responsible for violation of the Tribunal to be sent to civil imprisonment in accordance with the provision of Order 21 read with Section 19 and 26 of the National Green Tribunal Act, 2010. Reply to these notices should be filed before the next date of

	Item No. 01 to 05 November 11, 2017 SS & RP	hearing. It shall be duty of the NCT of Delhi and DPCC to serve the notices upon the concerned officers/ contractors of these organizations. 8. It is also pointed out that there are 13 Thermal Power Plants with a capacity of 11,000 MW in the radius of 300 km of NCT of Delhi. They are serious contributors of pollutants to the ambient air quality in Delhi. They contribute 80% of the Sulphate and 50% of Nitrogen to the receptor concentration. This adds to increase of pollutants of PM₁₀ and PM_{2.5} besides adding other pollutants to the ambient air quality. If emissions from these plants are controlled and or they are upgraded so as to meet strictly in accordance with the prescribed standards it could largely impact the improvement of ambient air quality in NCT of Delhi. 9. We direct the above Committee to submit a report in this behalf to the Tribunal and what precautionary and preventive measures should be taken. The order of the Tribunal dated 08.11.2017 and 09.11.2017 shall apply mutatis-mutandis to this order and all the directions contained in this order must be strictly adhered to. 10. All the corporations and public authorities from all the States of NCT of Delhi and surrounding areas shall ensure that there is no structural construction activity carried on till the next date of hearing. 11. We have already passed directions in relation of burning of waste and crop residue burning. By the next date every State should submit the report in

	Item No. 01 to 05 November 11, 2017 SS & RP	that behalf including all the local authorities of NCT of Delhi. 12. All the corporations and the DDA is hereby directed to post special forces on the land fill sites (municipal solid waste land fill sites) to ensure that there is no fire of any kind from any of these sites. If any fire of the waste burning is brought to the notice of the Tribunal particularly in relation of the land fill sites, every officer incharge concerned under whose jurisdiction that the area shall fall would be liable to be proceeded against in accordance with the law besides imposition of environmental compensation in terms of Section 15 of the National Green Tribunal Act, 2010 upon the said Authority or Corporation. 13. We direct NCT of Delhi to immediately reconsider its decision with regard to the parking charges. We are unable to appreciate what environmental impact it is likely to have particularly when the directions of the Tribunal with regard to construction, providing of parking areas, ensuring that those parking areas and parking buildings, multiple parking are used for parking in a regulatory manner and parking on the road sides is entirely discouraged. We do not have hesitation in noticing that corporation and the State authorities have failed to comply with those directions. The steps must be taken in a holistic manner to achieve the objective of protection of environment creating undue burden on a common man as no solution to environmental issues.

	Item No. 01 to 05 November 11, 2017 SS & RP	14. If cars are permitted to be registered and plied in Delhi then they must be provided with the parking space. For instance, the multiple parking at Sarojni Nagar remains empty which is undisputed fact and all the vehicles are permitted to be parked on the roads where some contractors collect money and add to congestion of traffic. All the Government Authorities, Corporations and NDMC should take immediate and effective steps to rectify these discrepancies and ensure better co-ordination between the Corporations, Government, Police, Departments and the contractors who are engaged for parking purposes. 15. We also direct that in consultation with the Metrological Department, the Chief Secretary of Delhi would take an emergent meeting as and when there is a likelihood of severe pollution of the ambient air quality and definitely before it reaches the values of environmental emergency. 16. The sample of ambient air quality shall be collected and analyzed particularly immediately after the rain if it so happens and report submitted to the Tribunal. 17. We have already clarified that the industries dealing with essential services and goods eatable, subject to inspection by the officers, would be permitted to operate if their emissions are within the prescribed limits and they are non-polluting. 18. The hybrid cars shall also stand exempted. 19. We do not contribute to the principle stated at the

Item No. 01 to 05 November 11, 2017 SS & RP	bar on behalf of NCT Delhi that the volatile ambient air quality value should be for a period of 48 hours or on 48 hours basis. It is bound to be more damaging to human health if a person or public at large is compelled to breath or even for 12 hours the values of which remain within 500 µg/m³ to 700 µg/m³ as against the prescribed value of 100 µg/m³. Thus we direct that 48 hours may be relevant for determining average pollutant values, but not for taking emergent measures particularly when it cross 700 µg/m³. 20. The Learned counsel appearing for NCT Delhi has informed that the site has already been provided for keeping the vehicles which are impounded/seized by the Police being 10 years old vehicles in the case of diesel and 15 years old in the case of petrol. 21. We direct the Commissioner of Police, Delhi to ensure that vehicles which are violating the above directions of the Tribunal should be seized and compliance report be submitted to the Tribunal on the next date of hearing. List these matters on 14th November, 2017 the date already fixed. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narendra Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

	residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)
And
Original Application No. 21/2014**

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And**

**Sanjay Kulshrestha Vs. Union of India & Ors.
And**

**Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And**

**Diya Kapur & Ors. Vs. Union of India & Ors.
And**

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

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Mr. Mukul Singh, Adv. for MoEF.
Mr. Amit Agrawal, Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

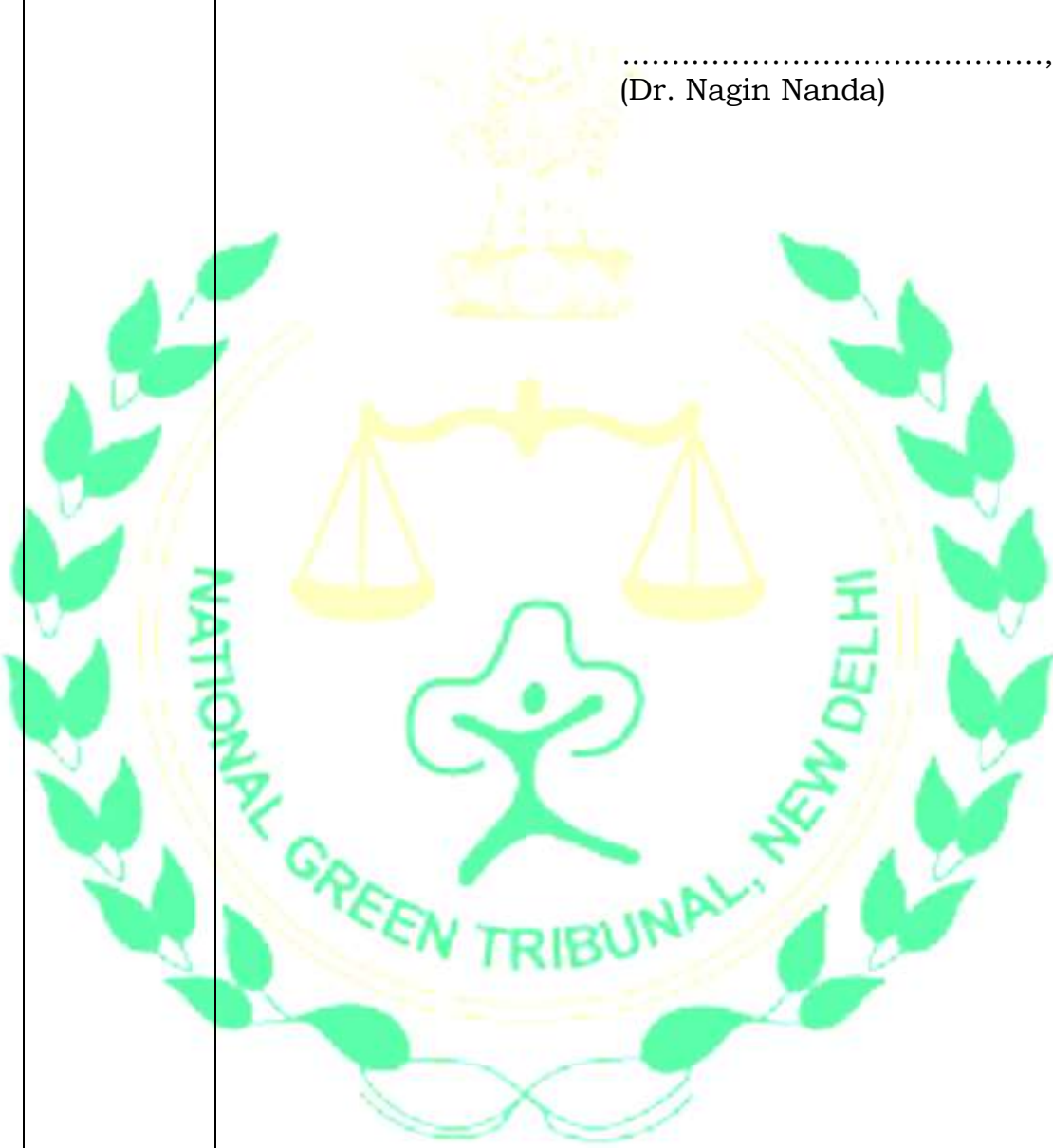
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM₁₀ exceeds 1000 µg/m³ and PM_{2.5} exceeds 600 µg/m³ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 773 of 2018

Metro Transit Private Limited Vs. South Delhi Municipal Corporation & Ors.

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

Present: Ms. Nidhi Mohan Parashar and Mr. Umang
Kumar Singh, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 12 October 23, 2018 A	1. This application seeks direction to remove hawkers, construction material lying on the roads and stop unauthorized parking for smooth flow of traffic so that the business of the applicant transport company is not obstructed and also environment is protected. 2. The Applicant is a bus operator. According to the applicant, it is finding it difficult to conduct operations as substantial part roads is occupied either by hawkers or by illegally parked vehicles. According to the applicant, large number of idle running vehicles are adding to the air pollution resulting in around light deaths per day. Stopping of illegal parking and congestion will improve the public transport system. 3. Undoubtedly, menace of illegal parking and encroachments is a serious issue not only in Delhi but in all major cities. Vehicular emissions add to air pollution which impacts public health. The applicant has sought directions against SDMC, Transport Department of Delhi and the DCP Traffic. 4. Though, the applicant's individual concern may not be enough for any order by the Tribunal having regard to the impact of the vehicular emission on the air quality, the question of number of vehicles to be permitted

Item No. 12 October 23, 2018 A	proportionate to the capacity of the roads in a city is vital issue of planning on which a policy is required to be explored in larger interest of environment especially for cities or areas where air quality is not consistent with the norms. This needs to be explored by the Ministry of Transport, Government of India in consultation with the concerned States. It may be advisable to have a Committee of experts on the subject which to examine the issue in time bound manner. 6. Accordingly, we dispose of this application by directing the Ministry of Transport, Government of India to take an initiative in the matter forthwith and examine the matter in the light to available expert opinions, any fresh expert opinion, experiments elsewhere and all relevant factors. This exercise may be completed as far as possible within three months. 7. A copy of this order be sent to the Ministry of Transport by e-mail. 8. We also direct to Ministry of Transport to forward action taken report to this Tribunal by e-mail on or before 31.03.2019 which may be put for consideration on 29.04.2019. 9. Needless to say that every order of National Green Tribunal is binding as a decree of Court and non-compliance is actionable by way of punitive action in terms of the National Green Tribunal Act, 2010. 10. Application is disposed of. , CP (Adarsh Kumar Goel) , JM (Dr. Jawad Rahim)

		,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 23.10.2018



Item No. 04

Court No. 1

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

(By Video Conferencing)

Original Application No. 681/2018

News item published in "The Times of India" Authored by Shri Vishwa
Mohan titled **"NCAP with multiple timelines to clean air in 102
cities to be released around August 15"**

Date of hearing: 21.08.2020

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

Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Ardhendu Prashad for MoRTH (in OA 773/2018)

ORDER

S. G27 No.	CONTENT	PARA No.
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I. The Issue: Remedial Action for air pollution in 122 Non-Attainment Cities (NACs)

1. This order is being passed in continuation of order dated 20.11.2019 on the subject of remedial measures to be adopted to enforce

the Ambient Air Quality Standards with reference to the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the EPA Act) in cities classified as 'Non-Attainment Cities' (NACs)¹ based on monitoring of the ambient air quality. Further question is compliance of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules) framed under the provisions of the EPA Act.

II. Order dated 08.10.2018:

2. Vide order dated 08.10.2018, this Tribunal noticed the newspaper report² to the effect that 102 cities were identified as NACs for not meeting the prescribed standards of air quality. The Air Act stipulates stopping of any activity violating norms of air quality and taking steps for prosecution or other regulatory measures³ which have been read to include recovery of compensation on 'Polluter Pays' principle⁴. National Ambient Air Quality Standards are laid down under Section 16(2)(h) of the Air Act.⁵ The Central Pollution Control Board (CPCB) compiled its report with reference to the said standards and published a list of 102 NACs⁶. The GoI prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years. It may be noted that as a result of such exercise, earlier in the year 2017 number of NACs was

¹ NAC has been defined as those "Cities which are exceeding annual average concentrations of any of the notified parameters with respect to National Ambient Air Quality Standards for consecutively five years".

² Dated 03.08.2019 in the Times of India under the heading "NCAP with multiple timelines to clean air in 102 cities to be released around August 15".

³ Section 22 read with Section 31A of the Air Act and

⁴ Aryavart Foundation Vs. M/s Vapi Green Enviro Limited & Ors.O.A No. 95/2018, Indian Council for Enviro Legal Action & Ors. v. Union of India & Ors. (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum v. Union of India & Ors. (1996)5SCC647 Para 12 to 18 - holding that 'Polluter Pay' principle is accepted principle and part of environmental law of the country, even without specific statute.

⁵ Notification dated 12.11.2009 issued by the CPCB

⁶ https://cpcb.nic.in/uploads/Non-Attainment_Cities.pdf

95⁷ which number increased to 102 in the year 2018 and has now reached 122. This shows that action taken so far is inadequate and does not match the increasing pollution. Apart from this, the real number might increase further if complete and accurate data is not collected.

3. The Tribunal noted the concern arising from such large scale air pollution which grapples the country in spite of statutory mechanism under the Air Act, directions of the CPCB under section 18(1)(b), dated 29.12.2015 and directions of the Hon'ble Supreme Court for control of **vehicular pollution⁸, industrial and construction sector pollution⁹, power sector pollution¹⁰ and agricultural sector pollution¹¹** and orders of this Tribunal dealing with the said issues¹². The Tribunal also referred to a Comprehensive Action Plan (CAP) for air pollution control for NCR prepared in pursuance of order of the Hon'ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and Delhi Pollution Control Committee (DPCC) on 05.04.2017¹³ and Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017 stipulating specific

⁷ <http://cpcbenvvis.nic.in/airpollution/finding.htm>. Based on ambient air quality data obtained (2008-2010) under National Air Quality Monitoring Programme (NAMP)

⁸ Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others (1985) 2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 4 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

⁹ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 176, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2 SCC 431, Mohd. Haroon Ansari v. District Collector (2004) 1 SCC 491, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 3 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors. (2013) 4 SCC 575, M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000) 6 SCC 213

¹⁰ Consumer Education and Research Centre v. Union of India (1995) 3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2 SCC 539

¹¹ Arjun Gopal and Ors v. Union of India and Ors (2017) 16 SCC 280, Dr. B.L Wadhera v. Union of India and Ors (1996) 2 SCC 594

¹² Vardhman Kaushik v. Union of India and Ors. O.A no. 21 of 2014, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors, O.A No. 118 of 2013, Satish Kumar v. Union of India and Ors, O.A. No. 56 (T_{HC}) OF 2013, Smt. Ganga Lalwani V. Union of India and Ors. O.A No. 451 of 2018

¹³ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

steps for different levels of air quality such **as improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns, control of generator sets, open burning, open eateries, road dust, construction dust, etc.**¹⁴

4. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.¹⁵

5. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes stopping entry of trucks, stopping construction activities, odd and even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanized cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc.

6. The MoEF&CC has by various notifications put restrictions on activities in Coastal areas, Flood plains, Taj corridor Eco-sensitive zones, etc. in view of ecological sensitivity and impact of such activities on environment if such activities are carried out in unregulated areas. This needs to be extended to the NACs in view of impact on public health and

¹⁴ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

¹⁵ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>, <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

environment to give effect to the 'Precautionary' and 'Sustainable Development' principles.

7. The Tribunal, after consideration of the issue on 08.10.2018, directed as follows:

- “ i. All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.
- ii. The Action Plans may be prepared by six-member committee comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The Committee may be called Air Quality Monitoring Committee (AQMC). The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination.
- iii. The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc. The action plan shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.
- iv. The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.
- v. The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.
- vi. The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the

Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.

vii. The Chief Secretaries of the State and Administrators/Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate Action Plans, as directed.

viii. The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/SMS.

ix. The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.”

III. Significant Orders dated 16.01.2019, 15.03.2019, 06.08.2019 and 20.11.2019:

8. Compliance of the above directions was taken up for consideration periodically. Significant orders passed by the Tribunal are orders dated 16.01.2019, 15.03.2019, 06.08.2019 and 20.11.2019. Vide order dated 16.01.2019, the Tribunal directed¹⁶ Chief Secretaries of all States/UTs to appear in person after acquainting themselves with the significant environmental issues including the issue of NACs in their respective States.

Accordingly, the Chief Secretaries of all the States/UTs appeared.

After interaction with them, the Tribunal inter alia directed further

¹⁶ Vide order dated 16.01.2019 in OA 606/2018

monitoring at their level atleast once every month and sending quarterly status reports.

Vide order dated 15.03.2019, the Tribunal considered the status of compliance by various States/UTs in the matter of preparing and executing action plans for control of air pollution. Since there was large scale of non-compliance, further directions were issued.

Vide order dated 06.08.2019, following questions were framed for consideration:

- “ a. *Whether a robust nationwide real time online continuous ambient air quality monitoring programme has been designed as admittedly there are shortcomings in the current air quality monitoring regime in view of area coverage and quality of data?*
- b. *Whether more cities have been identified as NACs and strategy to deal with the same has been prepared?*
- c. *Whether the States with NACs have prepared time bound and budgeted Action Plans for bringing the air quality of NACs in their States within the prescribed norms?*
- d. *Whether the components of such Action Plans are in conformity with the directions in order dated 08.10.2018¹⁷?*
- e. *Whether environmental compensation regime has been designed on ‘Polluter Pays’ principle?*
- f. *Whether CPCB, SPCBs and PCCs have developed a public grievance redressal portal?*
- g. *Further directions to deal with the situation.”*

Status with reference to each of the above questions was examined and following directions were issued:

- “ I. *CPCB, SPCBs and PCCs need to ensure assessment and installation of the requisite number of real time Online Continuous AAQMS within six months from today and indicate progress in this regard before the next date.*
- II. *The Expert Team of CPCB to design a model/SOP for source apportionment and carrying capacity assessment within two months which may be replicated for all the NACs. In the light*

¹⁷ (I) Identification of source of pollution; (II) Determining source apportionment including sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc; (III) measures for strengthening of Ambient Air Quality (AAQ) monitoring and (IV) Steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

of such study, further action may need to be considered by MoEF&CC within three months thereafter in terms of regulating the number of vehicles, action in terms of shift to e-vehicles and CNG vehicles, intensifying public transport system, mechanical cleaning of roads, enhancement of public parking facilities etc., improvement in fuel quality and traffic management, regulation of construction activities, strict adherence to siting guidelines with regard to stone crushers, mining, brick kilns, thermal power plants, coal handling, air polluting industries, hot mix plants, etc. Besides, activities like crop burning and burning of trash wood/leaves/debris for heating in winters to be strictly regulated and violations penalized as has been done by notifications for ESZ, CRZ, Ganga Flood plains etc.

- III. *Concerned Town & Country Planning departments (with whatever be the name in the State) of all the States/UTs may ensure review of master plans specially for the NACs to be consistent with carrying capacity and source apportionment study reports within six months of such reports being available and furnish compliance reports to this Tribunal and CPCB.*
- IV. *Concerned States may evolve enforcement mechanism for closing/shifting of industrial units other than household industries from residential/non conforming areas in the light of law laid down in M.C. Mehta vs Union of India, (2004) 6SCC 588.*
- V. *SPCBs/PCCs need to develop interactive public grievance redressal portals on the pattern of CPCB portal "Sameer" within two months if not already done.*
- VI. *Actions Plans need to be prepared by States for the additional 20 NACs on the pattern of 102 NACs within three months and after its approval by CPCB within two months, States must initiate time bound action on remediation within next three months.*
- VII. *CPCB may finalize the pending action plans within two months. Environmental compensation may be deposited by the defaulting States in terms of our order dated 15.03.2019 with the CPCB.*
- VIII. *Timeline prescribed for reviewing action plans with regard to its report dated 15.07.2019 by the CPCB for further micro planning may be reduced from six months, preferably to four months. CPCB may give appropriate directions to the SPCBs/PCCs accordingly.*
- IX. *CPCB must forthwith come out with a compensation regime within two months for air as well as noise pollution to the extent such norms have not yet been laid down.*

- X. *Having regard to adverse impact on public health and constitutional mandate that right to clean air is a fundamental right, the MoEF&CC may modify the NCAP by reducing the timelines and increasing the target for reduction of air pollution.*
- XI. *Noise Limiters need to be installed on potential noise polluting devices, including retrofitting the existing devices. Appropriate directions be issued by the States/UTs within three months in the same manner as directed by this Tribunal for Delhi vide order dated 01.08.2019 in O.A. No. 519/2016, Hardeep Singh & Ors. vs SDMC & Ors.*
- XII. *The CPCB may also evaluate existing air quality monitoring mechanism of all States and UTs and furnish a report to this Tribunal before the next date in terms of capacity of its scientific and technical personnel both in terms of number of personnel and skill/competence and outreach programmes on public awareness and suggestions for improvement.*
- XIII. *The CPCB and States may have robust Emergency Response System and preparedness by way of mock drills and measures to be taken in the scenario when air pollution levels become severe plus and severe.*
- XIV. *The SPCBs and PCCs to submit details of 'consent' funds to CPCB and this Tribunal within two months alongwith Action Plans on the basis of template provided by CPCB. CPCB may scrutinize and approve such action plans within two months in accordance to our order dated 22.01.2019 in O.A. No. 101/2019. Finally, the State PCBs and PCCs may execute their Action Plans within next one year thereafter.*
- XV. *The Environmental Compensation levied by State Transport Departments may be divided in the ratio of 50:25:25 amongst the States, the SPCBs/PCCs and the CPCB."*

Order dated 20.11.2019:

9. Finally, order dated 20.11.2019 was passed in the light of the report dated 14.11.2019 filed by the CPCB with regard to status of compliance of the directions issued on 06.08.2019. Since progress achieved was not adequate, further directions were issued on the issues earlier considered as well as the issue of tackling the problem of remediation of legacy waste dump sites which were also a source of air

pollution, adversely affecting public health. Directions issued in the said order are:

“29. In view of above, we direct as follows:

- i) Let assessed number of stations be installed within one year and quarterly progress reports furnished to CPCB by all the SPCBs/PCCs. First such report may be furnished by 01.04.2020. All such stations should be connected to the server of the CPCB and data displayed at the national portal on online real-time basis with AQI in public domain. CPCB may have its own stations at such critical locations as considered necessary. All the 12 notified parameters should be duly monitored by the CAAQMS. In default of compliance, SPCB/PCCs will be liable to pay compensation @ Rs. 5 Lakh per month starting from 01.01.2021. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*

Procurement of such equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- ii) Let SA and CC be completed within three months by the SPCBs/PCCs utilizing available data, based on which MoEF&CC may take further follow up action in terms of direction para II of order dated 06.08.2019 quoted above. SPCBs/PCCs may furnish action taken report to CPCB so that CPCB can file an appropriate report before this Tribunal. For any default, compensation will be liable to be paid @ of Rs. 5 lakh per month after 01.04.2020. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. MoEF&CC may file compliance report before the next date.*

- iii) The review of master plans may now be carried out in the light of the studies within six months from the date of such studies in above terms. Mechanism for shifting industrial units from residential areas may be evolved immediately. Let both these aspects be complied by the all the States/UTs and reports furnished to the CPCB. The Chief Secretaries concerned may monitor compliance. In default, the concerned States/UTs will be liable to pay compensation @ Rs. 5 lakhs per month after the stipulated timeline already mentioned. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments. The CPCB may prepare a comprehensive report and furnish the same before the next date.*

- iv) *PGRPs may be developed for the remaining NACs and report furnished by the SPCBs/PCCs to CPCB within two months. In default, SPCBs/PCCs concerned will be liable to pay compensation @ Rs. 2 lakhs per month from 01.02.2020. CPCB may file a compliance report. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*
- v) *Compliance may also be ensured for the remaining cities and report furnished to CPCB by the States/UTs by 31.01.2020. In default, compensation will be liable to be paid @ Rs. 10 lakhs per month from 01.02.2020. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the Heads of the Departments concerned.*
- vi) *Let the approved action plans be executed accordingly in terms of the timeline provided therein and compliance report furnished by Chief Secretaries of the concerned States/UTs to CPCB on quarterly basis starting from 01.04.2020. CPCB may file compliance report before this Tribunal. Failure on this regard may be visited with adverse consequences.*
- vii) *Let the States/UTs ensure compliance of directions with regard to the remaining cities in terms of observations in Para 18 within by 30.06.2020. In default, the States/UTs will be liable to pay @ Rs. 5 lakhs per month till compliance. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments.*
- viii) *Let the NCAP be revisited in terms of observations in Para 20 before the next date, failing which the Tribunal have no option except to take coercive measures against concerned officers.*
- ix) *Let the directions for control of noise pollution be complied with in terms of observations in Para 21 and report furnished to CPCB by 31.03.2020. CPCB may furnish a comprehensive report to this Tribunal. If the said direction is not complied with, the defaulting States/UTs will be liable to pay compensation @ Rs. 2 lakhs per month which may be collected by the CPCB and recovered from the salary of the concerned Heads of the Departments.*

Procurement of requisite equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- x) *Let the evaluation of monitoring stations be done positively by 31.12.2019 in terms of observations in Para 22 and a compliance report filed before the next date. As already directed, the evaluation should not only be sound in terms of scientific and technical capacity but also effectiveness of the outreach programme.*
- xi) *Let the steps for ERS be taken as per observations in Para 23 and compliance report filed before the next date. The States have not given their response which may now positively be done within one month, failing which the Tribunal have no option except to take coercive measures against concerned officers.*
- xii) *The Chhattisgarh State PCB is directed to take remedial steps and modify its action plan on the subject of EC and Consent funds in terms of instructions of CPCB and direction of this Tribunal. Fresh action plan may be furnished to CPCB by 31.01.2020. We also disapprove the inaction by other SPCBs/PCCs in not complying with the directions. All other SPCBs/PCCs may give their action plans latest by 31.01.2020. In default, the erring SPCBs/PCCs will be liable to pay environmental compensation @ Rs. 5 lakhs per month till compliance of the directions which may be liable to be recovered from the concerned Chairmen and Member Secretaries. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. CPCB may file a consolidated report on the subject before the next date.*
- xiii) *It needs to be explored by the MoEF&CC and concerned States/UTs whether a part of CAMPA funds can be utilized for special afforestation drive in 122 NACs. If so, further necessary action be taken and a report furnished to this Tribunal by the MoEF&CC before the next date.*
- xiv) *Apart from other steps, focused attention may be required to ensure bio-remediation of legacy waste dump sites for which this Tribunal has already issued exhaustive directions in O.A. No. 519/2019 as already noted in para 9 above.*
- xv) *With regard to finalization of Emergency Response System (ERS), we are of view that the State Disaster Management Authorities in coordination with the SPCBs/PCCs and State Units of Meteorological Departments may include emergency as a part of disaster management and develop ERS accordingly which may be placed in public domain.*
- xvi) *The States/UTs which are able to successfully control air pollution in measurable terms in respect of 122 NACs may place their successful models and best practices on their respective websites for the benefit of others.”*

IV. Order dated 26.02.2020 in OA 773/2018 regarding remedial action for unregulated parking and traffic congestion:

10. The Tribunal considered another overlapping issue of unregulated illegal parking on the roads, adding to air pollution and impacting public health.¹⁸ In order dated 26.02.2020, reference was made to the stand of the Ministry of Road Transport & Highways (MoRTH) that the Ministry was engaged in undertaking carrying capacity study for transport infrastructure. The Tribunal directed the concerned joint Secretaries of MoRTH as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB to remain present in person, after acquainting themselves fully on the subject. Accordingly, a report dated 16.06.2020 has been filed by the MoRTH and by the Ministry of Urban Affairs jointly on the subject of undertaking carrying capacity of the roads.

V. Reports of CPCB dated 06.03.2020, 21.07.2020 and 18.08.2020: Status of compliance of directions and response of MoEFF&CC declining to reduce time for abating air pollution under NCAP:

11. In the light of above proceedings and in compliance of the earlier directions, reports of CPCB dated 06.03.2020, 21.07.2020 and 18.08.2020 have been filed. Apart from the said reports, two reports dated 06.03.2020 and 15.07.2020 have been filed by the Oversight Committee for compliance of environment issues for the State of UP, headed by Justice SVS Rathore, former Judge of the Allahabad High Court at Lucknow.¹⁹ It is not necessary to separately refer to the reports filed by some other States as the said reports are already covered in the comprehensive report filed by the CPCB. A response has also been filed

¹⁸ OA 773/2018, Metro Transit Private Limited v. South Delhi Municipal Corporation & Ors.

¹⁹ Constituted Vide order dated 16.03.2020, OA 670/2018, Atul Singh Chauhan v. Ministry of Environment, Forests and Climate Change & Ors.

by the MoEF&CC with reference to reducing time for abatement of air pollution under NCAP and utilisation of Compensatory Afforestation Fund Management & Planning Authority (CAMPA) funds (covered by directions viii and xiii in the last order). We may now refer to the reports in seriatim and also deal with the response of the MoEF&CC.

12. Since report dated 06.03.2020 filed by the CPCB has been updated by a subsequent report dated 21.07.2020 (with regard to noise pollution issue) and dated 18.08.2020 (with regard to other issues), it will suffice to refer it to the later reports. Report dated 18.08.2020 deals with the major issues. We may refer to the same directions-wise with reference to the directions in the last order referred to above.

a) Direction – i)

Monitoring Stations – Continuous Ambient Air Quality Monitoring Stations (CAAQMS) and Manual Stations:

13. The report gives status as on 01.04.2020 of number of monitoring stations already functioning and gap in requirement. Steps taken for notification of the standards and vendors are mentioned. It is further mentioned that out of twelve (12) modified parameters, eight (08) can be monitored on real time basis by the online stations and the remaining four (04) will have to be measured on manual basis.

We are of view that since out of additional 398 online stations required in the NACs, 173 have already been set up, the work of completing remaining 175 stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month which may be monitored by the CPCB by having periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The Funds available under the ‘consent mechanism’/

‘environmental compensation’ may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/State PCBs/PCCs jointly, following an appropriate procedure to ensure best price and quality.

b) Direction – ii)

Undertaking Source Apportionment (SA) and Carrying Capacity (CC) Studies:

14. According to the CPCB, draft framework has been prepared and SA study completed in four States (for 05 cities). Study was under progress in 14 States (for 54 cities), and at proposal stage in 10 States (for 37 cities). Methodology for carrying capacity has been shared with State PCBs/PCCs. Twelve (12) States/UTs have given the details of the carrying capacity and the remaining have yet to take necessary steps. CC/SA studies are pre requisite for meaningful planning to enforce environmental law. This pre-requisite should have been undertaken long ago. Air quality norms have been statutorily laid down under the Air (Prevention and Control of Pollution) Act, 1981 as well as the Environment (Protection) Act, 1986 and such norms are being flagrantly violated, which has been made by the Parliament a criminal offence. If the rule of law has to have meaning and guilty are to be punished, the policies of the State have to be based on scientific studies to contain polluting activities within the scope of Carrying Capacity.

In this regard, it will be appropriate that such studies may be simultaneously undertaken by the State PCBs/PCCs utilizing the ‘consent mechanism’/‘environmental compensation’ fund for the purpose. Work in this regard may commence within one month which may be overseen by the CPCB by holding periodical online meetings in

same manner as for setting up of monitoring stations. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. It will be preferable that 25 such studies are conducted jointly by CPCB/State PCBs/PCCs to set a pattern. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs.

c) Direction – iii)

Review of Master Plans in the light of CC/SA Studies to identify areas where carrying capacity cannot sustain industrial or non-conforming activities which may have to be shifted on the pattern of directions of the Hon'ble Supreme Court in M.C. Mehta v. Union of India, (2004) 6 SCC 588:

15. Steps in this regard will have to be taken as a consequence of SA/CC Studies. Let the same be done in the interest of public health and protection of environment, to give effect to the 'Sustainable Development' principle. CPCB may follow up and monitor this aspect with the concerned authorities in States/UTs.

d) Directions – iv) & v)

Development of Public Grievance Redressal Portal (PGRP):

16. Eleven (11) States have developed PGRPs on the pattern of Sameer app and three (03) are in the process of developing such portals. Remaining States may also take steps accordingly preferably within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the interest of protection of environment and public health and to enforce rule of law. In particular, analysis may be undertaken about the number of complaints received, nature of issues raised and remedies provided. Such exercise

has to be ongoing. In the first instance, a report be compiled of status as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter.

e) Directions – vi) and vii)
Execution of Action Plans for NACs and EC regime:

17. Execution of action plans is said to have commenced but progress report has been filed only by the State of UP. CPCB has developed a format but the reports have not been received. Let all the States/UTs ensure compliance in this regard. The States may also give information about the extent of improvement achieved, if any, in terms of reduction in pollution load.

f) Directions – viii) and xiii)
Revisiting of NCAP and use of Campa Funds : Consideration of response of MoEF&CC

18. On this subject also, report has been filed by the MoEF&CC. The MoEF&CC has stated as follows:

“The Committee upon further detailed deliberations concluded that 20-30% pollutant reduction under NCAP seems realistic. However, in order to assess impact of technological and policy interventions on air quality levels, a mid-term nationwide review with the help of identified technical experts may be conducted and targets can be updated, if required.”

19. In our view, the stand of the MoEF&CC is against the constitutional mandate under Article 21. Right to clean air stands recognized as part of right to life and failure to address air pollution is denial of right to life. We may only refer to the law laid down by the Hon’ble Supreme Court on the subject. In *M.C. Mehta v. Union of India & Ors.*²⁰, it was observed that deteriorating environment was a matter of serious concern. Such deterioration has to be addressed by stern

²⁰ (1998) 9 SCC 589 Para 1 to 7

measures. In *Arjun Gopal & Ors. v. Union of India & Ors.*,²¹ it was observed that there were reports of 1.5 million deaths per year in the country on account of air pollution. **Enforcement of ‘Sustainable Development’ principle and ‘Public Trust Doctrine’ require stern measures to be adopted to give effect to the mandate of international obligations for which the Environment (Protection) Act, 1986 and other laws have been enacted.** The Hon’ble Supreme Court has passed repeated orders with regard to controlling different sources of air pollution including air pollution by brick kilns, stone crushers, crop burning, blasting activities, mining, vehicular pollution, traffic management, industrial pollution, etc. These orders were taken into account while passing order dated 08.10.2018, quoted in paras 2, 3 and 4 above. Section 20 of the National Green Tribunal Act, 2010 requires enforcement of ‘Sustainable Development’, ‘Precautionary’ and ‘Polluter Pays’ principles. The stand that pollution cannot be controlled except to the extent of certain percent is directly hit by the Constitutional and statutory mandate. **Under the NCAP, target is to achieve norms in 10 years and reduce load to the extent of 35% in first three years with further reduction of pollution later. It means for 10 years pollution will remain unaddressed which is too long period of tolerating violations when clean air is right to life. Further, it is not clear what type of pollutants or all pollutants will be reduced. Thirdly, NACs cover cities where standards are not consecutively met for five years. What about other Cities. Fourthly, it is not clear as to what is monitoring mechanism for enforcement. There is no data how much pollution has been reduced in the last two years. Infact, in 2019, number of NACs has gone up from 102 to 122. A**

²¹ (2017) 1 SCC 41 Para 5 to 10 & 18

credible national monitoring mechanism needs to be notified with publication of achievements periodically. Such mechanism may include monthly interaction by the Secretary MoEF&CC or other senior level Central Govt. authorities with Chief Secretaries of States for handholding and coordination with reference to specific targets. MoEF&CC may review its decision and take further action as per law.

The MoEF&CC has also referred to Compensatory Afforestation Funds (CAF) Rules, 2018 under which the said funds can be utilized for planting and rejuvenation of forest covers in non-forest lands, falling in wildlife corridors, through certified nurseries, apart from such activities in forest areas. The States can utilize a part of CAMPA funds for special afforestation drives in areas under the administrative control in the NACs as per CAF Act, 2016. The concerned States may take appropriate action for utilizing the CAMPA Funds which may help abating pollution in 122 NACs. The CEO of CAMPA may hold a video conference with all the States/PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds.

g) Directions – ix) and x)
Remedial action for control of noise pollution, including procurement of monitoring devices and installation of Noise Limiters:
Evaluation of existing Air Quality Monitoring Mechanism:

20. On this subject, CPCB has given a separate report dated 21.07.2020 covering compensation regime and also procurement of equipments, covered by a separate direction. As regards setting up of monitoring stations to map noise levels, it is stated that 23 States/UTs have given action plans while the remaining 12 are yet to submit. GeM has informed that specifications of sound level meters and reputed vendors list have been placed on the GeM portal. CPCB has also communicated its observations with regard to gaps in the action plans

submitted by the States. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020.

We may note that in the context of Delhi, the issue of noise pollution has been dealt with by this Tribunal separately vide order dated 11.08.2020 in *Hardeep Singh & Ors. v. SDMC & Ors.*, OA 519/2016. The Tribunal approved the report of the CPCB dated 12.06.2020 laying down regime of compensation for violation of noise pollution norms as follows:

“Table 1: Enlishment of Violation of Noise Rules and their respective Scale of Compensation.

Sr. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority
1.	USE OF LOUD SPEAKERS/PUBLIC ADDRESS SYSTEM¹ (Clause 5(1)-5(2), 6(i,ii,iii and v)¹⁻⁵	₹ 10,000	Seizure
2.	VIOLATION WRT GENERATOR SETS NORMS (standards attached as Annexure – IV to VI)		
a)	DG sets more than 1000 KVA	₹ 1,00,000/-	Sealing of DG sets
b)	DG sets 62.5 to 1000 KVA	₹25,000/-	
c)	DG sets upto 62.5 KVA	₹ 10,000/-	
3.	VIOLATION OF USE OF SOUND EMITTING CONSTRUCTION EQUIPMENT	₹50,000/-	Seizure/Sealing of equipment
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon’ble Supreme Court and Clause 5A (2) and 6 (iv)⁷⁻⁸		
4(1)	Violation by Individual/Household	Residential / Commercial/Mixed Zone Silence Zone 1,000	Silence Zone 3,000
4(2)	Violation during	10,000	20,000
			Fine to be paid by

	<i>Possession</i> <i>a. Public Rallies</i> <i>b. Barat during marriage</i> <i>Religious event</i>			<i>Organizer</i>
<i>4(3)</i>	<i>First Violation within a fixed Premises:</i> <i>a. Function organized by RWA,</i> <i>b. Marriage Function</i> <i>c. Public Function</i> <i>d. Institution function</i> <i>e. Banquet Hall</i> <i>f. Open ground functions</i>	<i>20,000</i>		<i>Fine to be paid by Organizer and Owner of the place.</i>
<i>4(4)</i>	<i>Second Violation within a fixed Premises:</i> <i>a. Function organized by RWA,</i> <i>b. Marriage Function</i> <i>c. Public Function</i> <i>d. Institution function</i> <i>e. Banquet Hall</i> <i>Open ground function</i>	<i>40,000</i>		
<i>4(5)</i>	<i>More than Two Violation within a fixed Premises:</i> <i>a. Function organized by RWA,</i> <i>b. Marriage Function</i> <i>c. Public Function</i> <i>d. Institution function</i> <i>e. Banquet Hall</i> <i>Open ground function</i>	<i>1,00,000 and action under EP Act.</i>		<i>Sealing of Premises</i>

Note:

1. *Clause 5(1): A loud speaker or a public address system shall not be used except after obtaining written permission from the authority.*
2. *Clause 5(2): A loud speaker or a public address system or any sound producing instrument or a musical instrument or a sound amplifier shall not be used at night time except in closed premises for communication within, like auditoria, conference rooms, community halls, banquet halls or during a public emergency.*
3. *Clause 6 (1) Playing any music or uses any sound amplifiers in any place covered under the silence zone/area are prohibited.*
4. *Clause 6(ii): Beating a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrumenting any place covered under the silence zone/area are prohibited.*
5. *Clause 6(iii): Exhibits any mimetic, musical or other performances of a nature to attract crowds in any place covered under the silence zone/area are prohibited.*
6. *Clause 5(A) (3): Sound emitting construction equipment shall not be used or operated during-night time in residential areas and silence zones*
7. *Sound emitting fire crackers shall not be burst in silence zone or during' night time in each zone;*
8. *As per directions of Hon'ble Supreme court, following time limits are prescribed for bursting fire crackers:*
Diwali: 8 pm to 10 pm
Gurpurb: - 4am to 5 am and 9 pm to 10 pm
New year and Christmas: 11.55 P.M to 12.30 A.
9. *It may be noted that imposition of fine for notification of Rule 5A(1) falls within the purview of Motor Vehicle Rules, 2019"*

The Tribunal also directed strict monitoring at ground level for protection of public health and environment to be overseen at higher levels in the administration.

21. With regard to evaluation of existing AQMS, CPCB sought information from the States and after analyzing the same, suggested as follows:

- “ • *Adequate infrastructure in terms of instruments and staffs may be ensured by each Pollution Control Boards & Pollution Control Committees. Manpower requirement for further expansion of network also to be worked out.*
- *Mechanism should be developed by every State Pollution Control Boards / Pollution Control Committees for induction & service period trainings for staffs involved in sampling and analysis.*
 - *At least central laboratory in each state/UT should be accredited on priority, for those which are yet to be accredited.*
 - *CPCB guidelines for sampling and analysis should be followed with proper quality control.*
 - *Data dissemination to public including website, mobile aap, and display board at various places for mass awareness may be strengthened.”*

Let further steps be taken in terms of above suggestions by all the State PCBs/PCCs and information furnished by the State PCBs/PCCs to the CPCB by 31.12.2020. Existing Air quality control mechanism needs to be revamped for which CPCB may give its further suggestions in the next report. We reiterate the need to regulate noise caused by loudspeakers, DJs, Public Address systems and otherwise, particularly in residential areas as per Noise Control Rules, 2000, the judgement of the Hon'ble Supreme Court in (2005) 5 SCC 733²² and relevant observations in the order of this Tribunal dated 11.08.2020 in *Hardeep Singh & Ors. v. SDMC & Ors.*, OA 519/2016, passed in the context of Delhi. Report in this regard may be filed with the CPCB.

h) Directions – xi) & xv)

Finalization of Emergency Response System (ERS) and coordination with Disaster Management Committees:

22. The report mentions that eleven (11) States have developed GRAPs. CPCB has suggested that:

“a suitable mechanism similar to Task Force under GRAP for Delhi-NCR may also be put in place to advice action needed under emergency air quality situations.”

²² *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*

Let all the States/UTs take further action to finalize the respective Emergency Response Systems (‘ERSs’) in the light of the above suggestion.

Coordination with the State Disaster Management Authorities, State PCBs/PCCs and Meteorological Departments:

This aspect may be taken up by all States/UTs so as to ensure that no environmental disasters happen. In this regard, the Tribunal has recently dealt with vide the problem of frequent environmental disasters vide order dated 23.07.2020 in OA 134/2020, *News Item published on 13.07.2020 in daily “India Today” titled “Massive fire engulf Vizag chemical plant, explosions heard, injuries reported”* and issued directions which may be looked into by all States/UTs and coordinated by the CPCB.

i) Direction – xii)

Status of Consent and EC Funds:

23. The CPCB constituted a Committee which has approved action plans of five (05) States and the remaining are yet to be finalized. Let further action be taken by 31.12.2020 in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, *Ashish Kumar Dixit v. State of Uttar Pradesh & Ors.* It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.

j) Direction xiv)

Bio-remediation of legacy waste dump sites:

24. In terms of directions already issued in O.A. No. 519/2019, the CPCB has given the latest data on the subject and mentioned the

shortcomings in the procedure adopted by various Municipal Corporations where inspections were carried out by CPCB. CPCB conducted a meeting with respect to Municipal Corporations in Delhi and highlighted the issues and asked them to follow the CPCB guidelines on the subject. Let CPCB issue a fresh direction in this regard to all the State PCBs/ PCCs and coordinate further action with the concerned Urban Development/Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. The Tribunal has already issued directions on this subject vide order dated 17.7.2019 in OA 519/2019 requiring commencement of remediation of legacy waste sites by 1.11.2019. Rule 22 of the Solid Waste Management Rules has fixed outer limit of 7.4.2021 for completing such remediation. However, for continued damage to environment by delay in remediation, environment compensation is liable to be paid. This being mandate of the Constitution, even extension of timeline in rule may at best provide defence against prosecution but inherent liability continues. By subsequent order dated 28.2.2020 (in OA 606/2018 para 41), it was directed that specified compensation will be payable if work does not commence by 1.4.2020. Let such remediation commence wherever it has not so commenced and data in this regard furnished to CPCB by 31.12.2020.

k) Direction xvi)

Placing successful models by States on Websites

25. No information has been furnished with reference to the said direction. CPCB may include information on the subject in its next report.

VI. Consideration of report of Ministries of Road Transport & Highways and Urban Development dated 16.06.2020 with reference to order in OA 773/2018 on overlapping issue:

26. We may now refer to the report dated 16.06.2020 received from the Ministries of Road, Transport and Highways (MoRTH) and Urban Development in response to the order of the Tribunal in O.A. No. 773/2018 dealing with the issue of unregulated parking, adding to the air pollution, making it necessary to undertake carrying capacity of the roads and making planning to limit the number of vehicles, policies for parking etc and implementing its decisions to uphold the principle of sustainable development, preventing air pollution and chaos . The stand in the report is that the task of formulating methodology has been entrusted to M/s Urban Mass Transit Company Ltd. (UMTC). The UMTC is to carry out a pilot study in Faridabad which can be used for other NACs. UMTC has given its interim report which was discussed with the domain experts who suggested that the report needs to be revamped with additional aspects and indicators which involve collection of primary and secondary data. Such data collection is not possible on account of Covid-19 and will require 10-12 months.

27. We are of the view that the approach adopted by the MoRTH can hardly be held to be consistent with the mandate of the Constitution, particularly the principles of 'Sustainable Development', 'Precautionary' principle and 'Polluter Pays' principles which have been held to be part of right to life under Article 21 of the Constitution in various judgments of the Hon'ble Supreme Court to which reference has already been made. There are international treaties requiring enforcement of these principles and directive principles under the Constitution also mandate obligation of the State to provide clean environment. It is well known that various activities in excess of carrying capacity of 122 cities have led to the said

cities being declared NACs and unless stern expeditious measures are taken, meaningful enforcement of 'Sustainable Development' principle, right to life and 'Public Trust Doctrine' is not possible. This Tribunal, under Section 20 of the National Green Tribunal Act, 2010, has the mandate to enforce these principles. In this view of the matter, dilatory tactics in the report can hardly be appreciated as this will prejudice the public health and environment, in breach of Constitution of the country. All concerned, including MoRTH must take meaningful and prompt action instead of shirking responsibility, as the report indicates. Unless proper planning is done to bring down the pollution load, mandate of protection of public health will remain only on paper. MoRTH may consider entrusting the task to Central Road Research Institute and the project may be funded by CPCB out of compensation funds or otherwise. On that basis, appropriate policies be prepared and executed to regulate order on roads, to avoid chaos and to check pollution. Policy may include number of vehicles to be registered in 122 NACs, specifying parking areas etc. so that roads do not become parkings, leading to traffic congestion and air pollution and policy to deal with vehicles already registered beyond carrying capacity of roads of the cities and parking areas available.

VII. Consideration of report of Oversight Committee for the State of UP giving status of compliance in UP dated 16.06.2020:

28. We now take up the latest report in the context of State of U.P. filed by the Oversight Committee (OC) constituted by the Tribunal for the environmental issues in the said State. The report of the OC dated 15.07.2020 has dealt with the issue of air pollution generally, compliance status in the State of UP with regard to NACs falling in the State, with

reference to different action points. The report concludes with the following recommendations:

“Recommendations:

In view of above, we recommend as follows:

1. *It is fashionable for all the states to profess that they are promoting electric vehicles to reduce vehicular pollution. However Electric vehicles (EVs) can only be promoted if there is a charging station network in these cities. Though UP has come out with a charging station policy for Electric vehicles, there is not much progress on the ground. With the growth of charging stations for EVs in the cities, number of EVs will increase and vehicular pollution will go down.*
2. *Another professed step is to switch over to cleaner fuels like PNG. Though the Ministry of Petroleum, GoI is expanding the PNG network in U.P, the progress is slow. It is true that the piped natural gas network would lead to shifting of industries/vehicles/domestic users to cleaner fuel leading to less air pollution. However for this shift over, both logistics and economics need to be worked out. **Some incentives should be given to industry to switch over from polluting fuel to gas-based systems.** Such an arrangement exists in the TTZ area in Agra. It could be extended to NCR Area. State Government need to take care of logistics like earmarking appropriate land for Gas Distribution Stations to enable easy accessibility.*
3. *Brick Kilns contribute a large percentage to air pollution. Therefore Uttar Pradesh Brick Kiln (Siting Criteria for Establishment) Rules 2012 have been formulated to regulate the establishment of new Brick Kilns. Even for renewal of Consent to Operate, these Rules can be invoked. **Also, the carrying capacity of the area and other ambient air parameters need to be kept in mind while giving permission for new kilns or renewing consent for existing ones.** The situation is quite bad in NCR area, where keeping all these factors in view, NGT has ordered closure of Brick Kilns on 15.11.2019. The orders regarding brick kilns need to be enforced to guard against unsustainable air pollution. There are also complaints of burning of rubber tyres as fuel in brick kilns which produce noxious fumes. **A number of NAC cities including some in NCR region like Noida and Ghaziabad do not have Solid Waste Disposal/processing sites. The probability of Solid Waste burning in these NACs is quite high, leading to air pollution. Immediate steps be taken to establish solid waste processing facilities in these NACs.***
4. *As far as construction activities are concerned, MoEF guidelines should be incorporated compulsorily in the contracts which are signed with contractors. Any violation of those guidelines should be penalized heavily. Ministry of Housing and Urban Development can include it in the urban bylaws, prepare model contracts and enforce them through Urban Development Authorities.*

5. **The SA and CC studies should be done in all the districts of UP.** An Air Quality Assessment, Emissions Inventory and Source Apportionment Studies for Kanpur City (Final Report) was done by IIT, Kanpur in 2010 and submitted to Central Pollution Control Board, New Delhi (Link: <http://164.100.107.13/Kanpur.pdf>). The details of the benefits received from this study and how this study has helped in improvising the air quality of Kanpur city should be made available to Hon'ble NGT.
6. **The open burning of poly-ethylene bags, plastic material and other waste brings both quantitative and qualitative deterioration in the environment.** The government should incentivize the use of cheap alternatives to poly-ethylene bags. The One District One Product (ODOP) Policy of MSME Department of Govt. of UP can be used to focus on forward and backward linkages for these environment-friendly packaging materials. Alternatively, Plants for conversion of Plastic to Fuel as in Mathura could be encouraged. Plastics could also be channelized for use in road construction along with bitumen.
7. As per the orders of the Supreme Court, a complete ban has been imposed on single-use plastic bags. Then, there is no point in manufacturing this type of plastic bag. **A complete shutdown should be imposed on the manufacturing of these single-use plastic bags.** In case of the default both the manufacturer and the retailer are liable to pay the environmental compensation and strict action should be taken against them.
8. **There is a need to have innovative solutions to use the leftover stubbles for the production of some useful items or to use this waste to prepare some useful decorative products with the help of self-help groups.** The leftover stubble can be used in treating the water and waste water as its derivatives have a high adsorption rate to adsorb heavy metals from water and wastewater. The commercial use of the rice husk to produce the silica gels, silicon chip, synthesis of activated carbon and silica, production of lightweight construction materials and insulation, catalysts, zeolites, ingredients for lithium-ion batteries, graphene, energy storage/capacitor, carbon capture, and in drug delivery vehicles.
9. The UPPCB should conduct public awareness programs to make the people aware of the benefits of the clean air which people have already experienced during the lockdown. Cumulative drives involving the people to improve the indoor air quality should be taken into action. The awareness about cost-effective methods such as indoor plantation should be promoted. The responsibility of the citizens should also be fixed and more and more public participation should be encouraged in improving the overall air quality.
10. **As per the directions given in NCAP for a reduction of 35% of the pollution in 3 years starting from the levels of**

2017. The target has not been achieved. There needs to be an accountability matrix for each stakeholder and a system of continuous monitoring to achieve these targets in the prescribed time schedule. The work of flood plain zoning is in process in the State of Uttar Pradesh. UP has plans for massive afforestation to the tune of 25 crore plants this year. This could be utilized scientifically to develop Green Belts on riversides. The plantation will also benefit in controlling the floods and stabilization of the river banks.”

29. The above recommendations certainly need serious consideration and action by the concerned authorities in the State of UP. A copy of the report be furnished to the Chief Secretary, UP for further action in the State at different levels. Such action may be coordinated and overseen by the Monitoring Committee.

VIII. Directions:

30. In view of the above, the directions are summed up as follows:

- i. The work of completing remaining 175 monitoring stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month, which may be monitored by the CPCB, by holding periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The funds available under the ‘consent mechanism’/‘environmental compensation’ may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/State PCBs/PCCs jointly (with CPCB financing out of its EC funds), following an appropriate procedure to ensure best price and quality;
- ii. Carrying Capacity and Source Apportionment studies may be simultaneously undertaken by the State PCBs/PCCs, utilizing the ‘consent mechanism’/ ‘environmental compensation’ fund.

Work in this regard may commence within one month and completed in six months. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs in same manner as in direction i. It will be preferable that 25 such studies are conducted jointly by CPCB/State PCBs/PCCs (with CPCB financing out of its EC Funds) to set a pattern;

- iii. Let further steps of prohibiting/shifting polluting activities which are found unsustainable/non conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to 'Sustainable Development' principle be taken by the States/UTs;
- iv. The States may take further steps to set up and operate PGRPs expeditiously, within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the direction of protection of environment. In particular analysis may be undertaken about the number of complaints received, effective steps for redressal taken and improvement achieved and planned. Such exercise may be ongoing but in the first instance may be compiled as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter;
- v. Action plans for newly added 20 NACs be completed expeditiously on the pattern of such plans for 102 cities, already prepared;

- vi. All the concerned States/UTs may execute action plans, including control of stubble burning, where ever necessary and bursting polluting and noise generating fire crackers and give information about the status of compliance of action plans as on 31.12.2020 to CPCB before 15.1.2021. They may also give information in a tabulated form about the extent of improvement achieved, if any, in terms of reduction in pollution load. Steps in terms of action plans completed, actions ongoing and actions incomplete;
- vii. Detailed micro level planning be undertaken in respect of each NAC by the concerned State/UT expeditiously and status as on 31.12.2020 be furnished to the CPCB within one month thereafter;
- viii. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans for control of noise pollution and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020. Compensation regime for violations of noise pollution be applied by all the States/UTs;
- ix. We find that NCAP for reduction of air pollution does not fully meet the mandate of sustainable development. Violation of laid down air pollution levels resulting in large number of deaths and diseases needs to be addressed expeditiously. Targeted time of reduction of pollution loads needs to be reduced and planned steps need to be sternly implemented on the ground. MoEF&CC may take further action as per law in the light of observations in para 19 above.

The States may utilize CAMPA funds, undertaking special afforestation drives in forest lands or other permissible locations in 122 NACs as per CAF Act, 2016 to abate pollution in the said cities. The CEO of CAMPA may hold a video conferencing with all the States PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds;

- x. Let all the States/UTs take further action for procurement of equipments and taking other steps for control of noise pollution in 122 NACs as discussed in para 20 above and direction (viii) above, including applying compensation regime prepared by the CPCB and file their respective reports of status of compliance as on 31.12.2020 by 15.1.2021;
- xi. Let further steps be taken by all the States/UTs to finalise ERSs in terms of suggestion of the CPCB as quoted above in para 24, constituting a suitable mechanism similar to Task Force under GRAP for Delhi-NCR and information furnished to the CPCB by 31.12.2020;
- xii. let further steps be taken to plan utilisation of consent/EC funds by all the State PCBs/PCCs in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, *Ashish Kumar Dixit v. State of Uttar Pradesh & Ors* by 31.12.2020. It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.
- xiii. Let CPCB issue a fresh direction with regard to the remediation of legacy waste sites in the light of deficiencies noticed by the CPCB and coordinate further action with the

concerned Urban Development /Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. Where ever legacy waste sites remediation has not commenced, it may commence earliest having regard to the fact that timeline under statutory rules to complete such action is 7.4.2021 and continued delay is detrimental to public health and environment. Information of compliance status as on 31.12.2020 be furnished to CPCB in terms of observations in para 24 above;

- xiv. All the States/UTs and PCB/PCCs may take steps to coordinate with the State Disaster Management Authorities and Meteorological Departments. The observations of this Tribunal while dealing with the problem of frequent environmental disasters in order dated 23.07.2020 in OA 134/2020, *News Item published on 13.07.2020 in daily "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported"* may also be taken into account. Action taken reports be filed with the CPCB for submission of consolidated report to this Tribunal;
- xv. MoRTH may take further prompt action of undertaking carrying capacity studies with regard to road infrastructure, specially in 122 NACs, through Central Road Research Institute or any other agency which may be financed by CPCB out of compensation funds or otherwise. On that basis, proper policies be prepared to deal with the number of vehicles beyond parking capacity or carrying capacity and permitting entry or registration of number of vehicles, parking areas etc.

This is necessary to reduce congestion, unregulated parking and air pollution loads in 122 NACs. CPCB may coordinate with the concerned Ministries and acquaint this Tribunal with the outcome in its next report;

xvi. The recommendations of the Oversight Committee for the State of UP, in its report dated 15.07.2020, need serious consideration and action by the concerned authorities in the State of UP. The Chief Secretary, UP may ensure further action in the State at different levels which may be coordinated and overseen by the Monitoring Committee. The oversight Committee may give its further independent report to this Tribunal before the next date by e-mail;

xvii. In view of continued violation of law on significant environmental issues, to give effect to rule of law and Constitutional mandate of clean environment and for protection of public health and environment, monitoring must be done at the level of Chief Secretaries at least once in a month and the Chief Secretaries must have environment cells attached to their offices, as earlier directed by the Hon'ble Supreme Court and this Tribunal in OA 606/2018;

xviii. CPCB may file its consolidated report by email by January 31, 2021.

Copies of the order be sent to the Chief Secretaries of all States/UTs, Justice SVS Rathore, Chairman, Oversight Committee for the State of UP, Justice Jasbir Singh, Chairman Monitoring Committee appointed by this Tribunal for several environmental issues in the State of Punjab, Justice Pritam Pal, Chairman Monitoring Committee appointed by this Tribunal for several

environment issues in Haryana and Chandigarh, MoEF&CC, MoRTH, MoH&UD, CPCB, all States/UTs, State PCBs/PCCs and CEO, CAMPA by e-mail for compliance.

List for further consideration on 18.02.2021.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

Dr. Nagin Nanda, EM

August 21, 2020
Original Application No. 681/2018
DV

Item No. 05

Court No. 1

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

(By Video Conferencing)

Original Application No. 681/2018

(With reports dated 05.04.2021 and 05.02.2021)

In Re: News item published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with multiple timelines to clean air in 102 cities to be released around August 15"

Date of hearing: 08.04.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA EXPERT MEMBER**

Respondent(s): Mr. Raj Kumar, Advocate for CPCB
Mr. Pradeep Misra, & Mr. Daleep Dhyani, Advocates for UPPCB

ORDER

S. No.	CONTENT	PARA No.
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- I. **The Issue: Remedial Action for air pollution in 124 Non-Attainment Cities (NACs) and other air polluted areas where air quality is poor and above and Noise pollution – need for intervention of the Tribunal in view of inadequacy of measures taken so far**

1. The question for consideration is remedial measures to be adopted to enforce the Ambient Air Quality Standards with reference to the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the EP Act) in 124 cities classified as 'Non-Attainment Cities' (NACs)¹ based on monitoring of the ambient air quality. Though initially scope of consideration was limited to NACs, we propose to cover other air polluted areas where air quality is poor and above in this order. Further question is compliance of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules) framed under the provisions of the EP Act.

2. The Government of India (GoI) has prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years but question remains whether preparation of such programme is enough to discharge the Constitutional obligation to ensure maintenance of air quality standards as per norms so that health of the citizens is not adversely affected. While all efforts to reduce pollution are welcome, this cannot be understood to condone violations of laid down air quality standards till pollution reduction is achieved. Efficacy of the programme is required to be tested with reference to result on the ground in terms of reduction of pollution. If infact instead of reduction, pollution is increasing, what further measures are required and what directions are called for by this Tribunal under Sections 15/20 of the NGT Act, 2010.

II. Order dated 08.10.2018: Constitution of AQMC in States for preparing action plans to control air pollution for NACs

¹ NAC has been defined as those "Cities which are exceeding annual average concentrations of any of the notified parameters with respect to National Ambient Air Quality Standards for consecutively five years".

3. Proceedings were initiated suo motu vide order dated 08.10.2018, based on the newspaper report² to the effect that 102 cities (later increased to 124) were identified as NACs for not meeting the prescribed standards of air quality. Such reported violations gave rise to substantial question of environment requiring directions of this Tribunal for protection of environment by requiring enforcement of statutory standards of air quality for giving effect to the sustainable development and in the interest of public health. Adverse health impact of air pollution is well acknowledged.
4. Categories of air quality and its adverse health effect can be noticed from following tables extracted from the judgment of the Hon’ble Supreme Court in *Arjun Gopal & Ors. v. UOI & Ors.*³:

Table 1

AQI	Associated Health Impacts
Good (0-50)	Minimal impact.
Satisfactory (51-100)	May cause minor breathing discomfort to sensitive people.
Moderately polluted (101-200)	May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.
Poor (201-300)	May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease.
Very Poor (301-400)	May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases.
Severe May (401-500)	May cause respiratory impact even on healthy people, and serious health impacts on people with lung/heart disease. The health impacts may be experienced even during light physical activity.

Table 2

AQI Category, Pollutants and Health Breakpoints								
AQI category (Range)	PM₁₀ 24-hr	PM_{2.5} 24-hr	NO₂ 24-hr	O₃ 8-hr	CO 8-hr (mg/m³)	SO₂ 24-hr	NH₃ 24-hr	Pb 24-hr
Good (0-50)	0-50	0-30	0-40	0-50	0-1.0	0-40	0-200	0-0.5
Satisfactory (51-100)	51-100	31-60	41-80	51-100	1.1-2.0	41-80	201-400	0.5-1.0

² Dated 03.08.2019 in the Times of India under the heading “NCAP with multiple timelines to clean air in 102 cities to be released around August 15”.
³ (2017) 1 SCC 412

<i>Moderately polluted (101-200)</i>	<i>101-250</i>	<i>61-90</i>	<i>81-180</i>	<i>101-168</i>	<i>2.1-10</i>	<i>81-380</i>	<i>401-800</i>	<i>1.1-2.0</i>
<i>Poor (201-300)</i>	<i>251-350</i>	<i>91-120</i>	<i>181-280</i>	<i>169-208</i>	<i>10-17</i>	<i>381-800</i>	<i>801-1200</i>	<i>2.1-3.0</i>
<i>Very poor (301-400)</i>	<i>351-430</i>	<i>121-250</i>	<i>281-400</i>	<i>209-748*</i>	<i>17-34</i>	<i>801-1600</i>	<i>1200-1800</i>	<i>3.1-3.5</i>
<i>Severe (401-500)</i>	<i>430+</i>	<i>250+</i>	<i>400+</i>	<i>748+*</i>	<i>34+</i>	<i>1600+</i>	<i>1800+</i>	<i>3.5+</i>

5. The Air Act stipulates stopping of any activity violating norms of air quality and taking steps for prosecution or other regulatory measures⁴ which have been read to include recovery of compensation on ‘Polluter Pays’ principle⁵. National Ambient Air Quality Standards are laid down under Section 16(2)(h) of the Air Act. Notification dated 18.11.2009, issued by the CPCB is as follows:

“In exercise of the powers conferred by Sub-section (2) (h) of section 16 of the Air (Prevention and Control of Pollution) Act, 1981 (Act No. 14 of 1981), and in super session of the Notification No(s). S.O. 384(E), dated 11th April, 1994 and S.O. 935(E), dated 14th October, 1998, the Central Pollution Control Board hereby notify the National Ambient Air Quality Standards with immediate effect, namely:-

NATIONAL AMBIENT AIR QUALITY STANDARDS

S. No.	Pollutant	Time Weighted average	Concentration in Ambient Air		Methods of Measurement
			Industrial, Residential, Rural and Other Area	Ecologically sensitive area (notified by Central Govt.)	
(1)	(2)	(3)	(4)	(5)	(6)
1	Sulphur Dioxide (SO ₂), mg/m ³	Annual*	50	20	• Improved West and Geake • Ultraviolet fluorescence
		24 hours**	80	80	
2	Nitrogen Dioxide (NO ₂), mg/m ³	Annual*	40	30	• Modified Jacob & Hochheiser (Na-Arsenite) • Chemiluminescence
		24 hours**	80	80	

⁴ Section 22 read with Section 31A of the Air Act and
⁵ Aryavart Foundation Vs. M/s Vapi Green Enviro Limited & Ors. O.A No. 95/2018, Indian Council for Enviro Legal Action & Ors. v. Union of India & Ors. (1996) 3 SCC 212 Para 16, Vellore Citizens Welfare Forum v. Union of India & Ors. (1996) 5 SCC 647 Para 12 to 18 - holding that ‘Polluter Pay’ principle is accepted principle and part of environmental law of the country, even without specific statute.

3	Particulate Matter (size less than 10 mm) or PM ¹⁰ mg/m ³	Annual*	60	60	• Gravimetric • TOEM • Beta attenuation
		24 hours**	100	100	
4	Particulate Matter (size less than 2.5 microns) or PM _{2.5} mg/m ³	Annual*	40	40	• Gravimetric • TOEM • Beta attenuation
		24 hours**	60	60	
5	Ozone (O ₃) mg/m ³	8 hours **	100	100	• UV photometric • Chemiluminescence • Chemical method
		1 hour **	180	180	
6	Lead (Pb) mg/m ³	Annual*	0.5	0.5	• ASS / ICP method after sampling on EPM 2000 or equivalent filter paper • ED – XRF using Teflon filter
		24 hours**	1.0	1.0	
7	Carbon Monoxide (CO) mg/m ³	8 hours**	2	2	Non Dispersive Infra RED (NDIR) Spectroscopy
		1 hour**	4	4	
8	Ammonia (NH ₃) mg/m ³	Annual*	100	100	• Chemiluminescence • Indophenol blue method
		24 hours**	400	400	
9	Benzene (C ₆ H ₆) mg/m ³	Annual*	5	5	• Gas chromatography based continuous analyser • Adsorption and desorption followed by GC analysis
10	Benzo (a) Pyrene (BaP) – particulate phase only ng/m ³	Annual*	1	1	Solvent extraction followed by HPLC / GC analysis
11	Arsenic (As) ng/m ³	Annual*	6	6	AAS / ICP method after sampling on EPM 2000 or equivalent filter paper
12	Nickel (Ni) ng/m ³	Annual*	20	20	AAS / ICP method after sampling on EPM 2000 or equivalent filter paper

* Annual arithmetic mean of minimum 104 measurements in a year at a particular site taken twice a week 24 hourly at uniform intervals.

** 24 hourly or 8 hourly or 1 hourly monitored values, as applicable, shall be complied with 98% of the time in a year. 2% of the time, they may exceed the limits but not on two consecutive days of monitoring.

Note: Whenever and wherever monitoring results on two consecutive days of monitoring exceed the limits specified above for the respective category, it shall be considered adequate reason to institute regular or continuous monitoring and further investigation.”

6. The Central Pollution Control Board (CPCB) compiled its report on the basis of NAMP data for the years from 2014-2019 and published a list

of 102 NACs⁶. Presently, the list has gone upto 124 NACs which is as follows:

“List of 124 Non-Attainment cities

State	S. No.	City
Andhra Pradesh (13)	1.	Guntur
	2.	Kurnool
	3.	Nellore
	4.	Vijayawada
	5.	Vishakhapatnam
	6.	Anantapur
	7.	Chittoor
	8.	Eluru
	9.	Kadapa
	10.	Ongole
	11.	Rajahmundry
	12.	Srikakulam
	13.	Vizianagaram
Assam (05)	14.	Guwahati
	15.	Nagaon
	16.	Nalbari
	17.	Sibsagar
	18.	Silchar
Bihar (03)	19.	Patna
	20.	Gaya
	21.	Muzaffarpur
Chandigarh (01)	22.	Chandigarh
Chhattisgarh (03)	23.	Bhilai
	24.	Korba
	25.	Raipur
Delhi (01)	26.	Delhi
Gujarat (03)	27.	Surat
	28.	Ahmedabad
	29.	Vadodara
Himachal Pradesh (7)	30.	Baddi
	31.	Damtal
	32.	Kala Amb
	33.	Nalagarh
	34.	Paonta Sahib
	35.	Parwanoo
	36.	Sunder Nagar
Jammu & Kashmir (2)	37.	Jammu
	38.	Srinagar

⁶ https://cpcb.nic.in/uploads/Non-Attainment_Cities.pdf

Jharkhand (01)	39.	Dhanbad
Karnataka (04)	40.	Bangalore
	41.	Devanagere
	42.	Gulburga
	43.	Hubli-Dharwad
Madhya Pradesh (06)	44.	Bhopal
	45.	Dewas
	46.	Indore
	47.	Sagar
	48.	Ujjain
	49.	Gwalior
Maharashtra (18)	50.	Akola
	51.	Amravati
	52.	Aurangabad
	53.	Badlapur
	54.	Chandrapur
	55.	Jalgaon
	56.	Jalna
	57.	Kolhapur
	58.	Latur
	59.	Mumbai
	60.	Nagpur
	61.	Nashik
	62.	Navi Mumbai
	63.	Pune
	64.	Sangli
	65.	Solapur
	66.	Ulhasnagar
	67.	Thane
Meghalaya (01)	68.	Byrnihat
Nagaland (02)	69.	Dimapur
	70.	Kohima
Orissa (07)	71.	Angul
	72.	Balasore
	73.	Bhubaneswar
	74.	Cuttack
	75.	Rourkela
	76.	Talcher
	77.	Kalinga Nagar
	78.	Dera Bassi
	79.	Gobindgarh
	80.	Jalandhar

Punjab (09)	81.	Khanna
	82.	Ludhiana
	83.	Naya Nangal
	84.	Pathankot/Dera Baba
	85.	Patiala
	86.	Amritsar
Rajasthan (05)	87.	Alwar
	88.	Jaipur
	89.	Jodhpur
	90.	Kota
	91.	Udaipur
Tamilnadu (03)	92.	Thoothukudi
	93.	Trichy
	94.	Madurai
Telangana (04)	95.	Hyderabad
	96.	Nalgonda
	97.	Patancheruvu
	98.	Sangareddy
Uttar Pradesh (16)	99.	Agra
	100.	Allahabad
	101.	Anpara
	102.	Bareily
	103.	Firozabad
	104.	Gajraula
	105.	Ghaziabad
	106.	Jhansi
	107.	Kanpur
	108.	Khurja
	109.	Lucknow
	110.	Moradabad
	111.	Noida
	112.	Raebareli
	113.	Varanasi
	114.	Gorakhpur
Uttarakhand (03)	115.	Kashipur
	116.	Rishikesh
	117.	Dehradun
	118.	Kolkata
	119.	Asansol
	120.	Barrackpore
	121.	Durgapur
	122.	Haldia

	123.	Howrah
	124.	Raniganj

7. As already mentioned, the GoI prepared National Clean Air Programme (NCAP) proposing to reduce the pollution in next 10 years - 35% in next 3 years, 50% in next 5 years and 70-80% in next 10 years. The data shows that as against number of NACs being 95 in the year 2017⁷, the number increased to 102 in the year 2018, then to 122 and now to 124. Further, data of air quality for the entire Country is still not available in absence of adequate monitoring stations. Thus, the action taken so far is certainly inadequate, calling for intervention of this Tribunal as per mandate of law under Sections 15/20 of the NGT Act.

SC judgements on control of air polluting activities: vehicular pollution⁸, industrial and construction sector pollution⁹, power sector pollution¹⁰ and agricultural sector pollution:

8. The Tribunal noted the concern arising from such large-scale air pollution which grapples the country in spite of statutory mechanism under the Air Act, directions of the CPCB under section 18(1)(b), dated 29.12.2015 and directions of the Hon’ble Supreme Court for control of

⁷ <http://cpcbenvvis.nic.in/airpollution/finding.htm>. Based on ambient air quality data obtained (2008-2010) under National Air Quality Monitoring Programme (NAMP)

⁸ Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others (1985) 2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 4 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

⁹ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 176, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2SCC 431, Mohd. Haroon Ansari v. District Collector (2004) 1 SCC 491, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 3 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors.(2013) 4SCC 575 , M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000)6 SCC 213

¹⁰ Consumer Education and Research Centre v. Union of India (1995)3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2SCC 539

vehicular pollution¹¹, industrial and construction sector pollution¹², power sector pollution¹³ and agricultural sector pollution¹⁴ and orders of this Tribunal dealing with the said issues¹⁵.

9. In M.C. Mehta v. UOI, it was observed:

"1. The urgency for protection and improvement of the environment etc. has not been doubted for a long time. After the Stockholm Conference, 1972, in India several legislative steps have been taken for implementation of the programme. In addition to Article 47 in Part IV of the Constitution which imposes a duty on the State to improve the public health mentioned as one of the primary duties. Article 48A was inserted by the Constitution (42nd Amendment) Act, 1976 with effect from 3-1-1977 expressly to the effect that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country". Thereafter, the Environment (Protection) Act, 1986 (the Act) was enacted to provide for the protection and improvement of the environment and for matters connected therewith. The Statement of Objects and Reasons emphasises the world-wide concern over the decline in environmental quality and the urgency of steps required for the protection and improvement of the environment. It is clear that the possibility of any deterioration in the environmental quality was excluded and emphasis at the minimum was on protection with the endeavour to improve the then existing state of environmental quality. Any further decline in the environmental quality at least after the enactment of the Act is undoubtedly a failure to perform this obligation by the State, contrary to the constitutional scheme.

2. It cannot be disputed by anyone that there has been considerable further decline in the environmental quality even after enactment of the Environment (Protection) Act, 1986, notwithstanding the resolve to prevent which the constitutional amendment was given effect to by enactment of the statute.

¹¹ Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others (1985) 2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 4 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

¹² M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 176, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2 SCC 431, Mohd. Haroon Ansari v. District Collector (2004) 1 SCC 491, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 3 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors. (2013) 4 SCC 575, M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000) 6 SCC 213

¹³ Consumer Education and Research Centre v. Union of India (1995) 3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2 SCC 539

¹⁴ Arjun Gopal and Ors v. Union of India and Ors (2017) 16 SCC 280, Dr. B.L Wadhwa v. Union of India and Ors (1996) 2 SCC 594

¹⁵ Vardhman Kaushik v. Union of India and Ors. O.A no. 21 of 2014, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors, O.A No. 118 of 2013, Satish Kumar v. Union of India and Ors, O.A. No. 56 (T_{HC}) OF 2013, Smt. Ganga Lalwani V. Union of India and Ors. O.A No. 451 of 2018

3. *Even a cursory perusal of the provisions of the enactment reveal the emphasis on the need for not mere protection but also improvement of the environmental quality. The definitions including that of "environment" in Section 2 of the Act, the extent of the powers of the Central Government in Section 3 and the further power to give directions in Section 5 are alone sufficient to indicate the high degree of duty imposed on the State for which large powers are given to enable discharge of that duty. We may refer in particular to Sub-section (3) of Section 3 which confers powers on the Central Government to constitute an authority or authorities considered necessary or expedient by it for the purposes of this Act and the further power to give directions under Section 5.*

4. *In spite of a number of matters, including this writ petition of 1985 having been brought in the Court as PIL, the required attention does not appear to have been paid by the authorities concerned to take the steps necessary for discharge of this duty imposed on the State by the provisions mentioned above except for the enactment of the said statute. The least which ought to have been done in this direction was to constitute a high-power committee at the national level of eminent persons and to ensure Constitution of similar authorities at the State level in exercise of the power given by Sub-section (3) of Section 3 of the Act to ensure that the object of the enactment was duly served. The several aspects of the environment which this Court is required to deal with in this writ petition are all covered not merely by the general provisions in Sub-section (1) of Section 3 but also by the specific matters specified in Sub-section (2) thereof. It is only on account of the absence of the authority/authorities contemplated under Sub-section (3) of Section 3 that this Court is required to deal with these matters in this writ petition and several other similar writ petitions pending in this Court, in addition to those which are pending in different High Courts. It is also a matter of concern that notwithstanding the pendency of these matters in this Court for so long no steps have been taken as yet by the Central Government for the Constitution of the authority/authorities contemplated by Sub-section (3) of Section 3 so that even now these matters can be taken care of by the authorities intended for the purpose.*

5. *It is undoubtedly a matter of universal concern that the quality of the environment continues to deteriorate even now. Any further delay in the performance of its duty by the Central Government cannot, therefore, be permitted. Suitable directions by the Court to require performance of its duty by the Central Government is mandated by the law and have, therefore, now to be given. We consider it appropriate that before issuing such directions, the Central Government should be given one more opportunity to indicate all the measures taken by it so far for discharge of the duty enjoined on it by the above provisions in Part IV of the Constitution and the Environment (Protection) Act, 1986.*

6. *It need hardly be added that the duty cast on the State under Articles 47 and 48A in particular of Part IV of the Constitution is to be read as conferring a corresponding right on the citizens and, therefore, the right under Article 21 at least must be read to include*

the same within its ambit. At this point of time, the effect of the quality of the environment on the life of the inhabitants is much too obvious to require any emphasis or elaboration.

7. We may also add that the Central Government in addition to stating all the steps taken so far, as indicated above, must also place before the Court the national policy, if any, drawn up in this behalf for the protection and improvement of the environment and the steps it proposes to take to restore the quality of the environment at least to the level at which it existed in 1977 together with the time-frame for the implementation of the programme. These particulars be furnished on the affidavit of the Secretary, Ministry of Environment and Forests, Government of India.”

CAP and GRAP for NCR

10. The Tribunal also referred to a Comprehensive Action Plan (CAP) for air pollution control for NCR prepared in pursuance of order of the Hon’ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and Delhi Pollution Control Committee (DPCC) on 05.04.2017¹⁶ and Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017 stipulating specific steps for different levels of air quality such **as improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns, control of generator sets, open burning, open eateries, road dust, construction dust, etc.**¹⁷

Unfavourable ranking of India in terms of air pollution

11. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India

¹⁶ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

¹⁷ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.¹⁸

12. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes **stopping entry of trucks, stopping construction activities, odd and even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanized cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc.**

13. The MoEF&CC has by various notifications put **restrictions on activities in Coastal areas, Flood plains, Taj corridor Eco-sensitive zones, etc. in view of ecological sensitivity and impact of such activities on environment if such activities are carried out in unregulated areas.** This needs to be extended to the NACs in view of impact on public health and environment to give effect to the 'Precautionary' and 'Sustainable Development' principles. Some of the well-known sources of air pollution are:

1. Construction activity and carriage of construction material.
2. Mining and transportation of mined material.
2. Burning of Municipal Solid Waste and other waste.
3. Burning of agriculture residue.
4. Bursting of crackers.
5. Vehicular Pollution
6. Diesel gen-sets
7. Dust on the roads.
8. Industrial and power house emissions including fly-ash.
9. Emissions from coal fired activities brick kilns, Hot-Mix Plants and Stone Crushers.

¹⁸ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>, <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

Tribunal's Intervention by 8.10.2018 order - Constitution of Air Quality Monitoring Committee (AQMC) in States, supervised by Chief Secretaries to prepare and execute action plans to control air pollution – with air quality monitoring and public grievance redressal portals

14. The Tribunal, after consideration of the issue on 08.10.2018, directed as follows:

- “ i. *All the States and Union Territories with non-attainment cities must prepare appropriate action plans within two months aimed at bringing the standards of air quality within the prescribed norms within six months from date of finalization of the action plans.*
- ii. *The Action Plans may be prepared by six-member committee comprising of Directors of Environment, Transport, Industries, Urban Development, Agriculture and Member Secretary, State Pollution Control Board or Committee of the concerned State. The Committee may be called Air Quality Monitoring Committee (AQMC). **The AQMC will function under the overall supervision and coordination of Principal Secretary, Environment of the concerned State/Union Territory. This may be further supervised by the Chief Secretaries concerned or their counterparts in Union Territories by ensuring intra-sectoral co-ordination.***
- iii. *The Action Plans may take into account the GRAP, the CAP and the action plan prepared by CPCB as well as all other relevant factors. The Action Plans may be forwarded to the CPCB by 31.12.2018. The same may be placed before the Committee as directed in direction no. vi. **The Action Plan will include components like identification of source and its apportionment considering sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc. The action plan shall also consider measures for strengthening of Ambient Air Quality (AAQ) monitoring and steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.***
- iv. ***The Action Plan will indicate steps to be taken to check different sources of pollution having speedy, definite and specific timelines for execution.***
- v. ***The Action Plan should be consistent with the carrying capacity assessment of the non-attainment cities in terms of vehicular pollution, industrial emissions and population density, extent of construction and construction activities etc. The carrying capacity assessment shall also lay emphasis on agricultural and indoor pollution in rural areas. Depending upon assessed carrying capacity and source apportionment, the authorities may consider the need for regulating number of vehicles and their parking and plying, population***

density, extent of construction and construction activities etc. Guidelines may accordingly be framed to regulate vehicles and industries in non-attainment cities in terms of carrying capacity assessment and source apportionment.

- vi. The Committee comprising of (a) Shri. Prashant Gargava, Member Secretary, CPCB, (b) Dr. Mukesh Khare, Professor, IIT Delhi, and (c) Dr. Mukesh Sharma, Professor, IIT Kanpur shall examine the Action Plans and on the recommendations of the said Committee, the Chairman, CPCB shall approve the same by 31.01.2019.
- vii. The Chief Secretaries of the State and Administrators/ Advisors to Administrators of the Union Territories will be personally accountable for failure to formulate Action Plans, as directed.
- viii. The CPCB, SPCBs and State Pollution Control Committees shall develop a public grievance redressal portal for redressal of public complaints on air pollution along with a supervisory mechanism for its disposal in a time bound manner. Any visible air pollution can be reported at such portal by email/ SMS.
- ix. The CPCB and all the State Pollution Control Boards and Pollution Control Committees shall collectively workout and design a robust nationwide ambient air quality monitoring programme in a revised format by strengthening the existing monitoring network with respect to coverage of more cities/towns. The scope of monitoring should be expanded to include all twelve (12) notified parameters as per Notification No B-29016/20/90/PCI-L dated 18th November, 2009 of CPCB. The continuous Ambient Air Quality Monitoring Stations (AAQMS) should be preferred in comparison to manual monitoring stations. The CPCB and States shall file a composite action plan with timelines for its execution which shall not be more than three months. It is expected that all such AAQMS shall be connected to central server of CPCB for reporting analysis of results in a form of Air Quality Bulletin for general public at regular intervals atleast on weekly basis and ambient air quality on continuous basis on e-portal. MoEF&CC will provide requisite funds for the purpose. MoEF&CC in consultation with Ministry of Housing and Urban Affairs, MoRTH, Ministry of Petroleum and Natural Gas, Ministry of Agriculture, Cooperation and Farmers Welfare or any other Ministry to lay down such guidelines as may be considered necessary for improvement of air quality in the country.”

III. Orders in related matters - dated 16.01.2019 in OA 606/2018, 26.02.2020 in OA 773/2018, 01.12.2020 in OA 249/2020, 03.12.2020 in OA 283/2020, 05.02.2021 in OA 95/2018, order dated 14.11.2019 in O.A. No. 1038/2018, order dated 23.07.2018 in O.A. No. 451 of 2018, order dated 17.03.2021 in O.A. No. 67/2019 and order dated 17.02.2021 in O.A. No. 1016/2019

- a. **Order dated 16.01.2019 in OA 606/2018: Requiring Chief Secretaries of all States/UTs to study and appear before the Tribunal to remedy significant environmental challenges including air pollution in NACs**

15. In pursuance of order dated 16.01.2019 in OA 606/2018, the Chief Secretaries of all States/UTs appeared in person. The orders specified areas of environmental concern being waste management, pollution of water bodies, non-attainment cities, polluted industrial areas, sand mining and enforcement mechanism, including compensation regime for restoration of environment. After interaction with them, the Tribunal *inter alia* directed further monitoring at their level atleast once every month and sending quarterly status reports. The Chief Secretaries were to constitute environmental cells directly under them and monitor compliance atleast once in a month. Similarly, District Magistrates were to monitor compliance at district level with the assistance of District Task Force as per District Environment Plan.

b. Order dated 26.02.2020 in OA 773/2018 regarding remedial action for unregulated parking and traffic congestion:

16. The Tribunal considered another overlapping issue of unregulated illegal parking on the roads, adding to air pollution and impacting public health.¹⁹ Vide order dated 26.02.2020, reference was made to the stand of the Ministry of Road Transport & Highways (MoRTH) that the Ministry was engaged in undertaking carrying capacity study for transport infrastructure. The Tribunal directed the concerned joint Secretaries of MoRTH as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB to remain present in person, after acquainting themselves fully on the subject. Accordingly, a report dated 16.06.2020 has been filed by the MoRTH and by the Ministry of Urban Affairs jointly on the subject of undertaking carrying capacity of the roads.

c. Order dated 01.12.2020, in OA 249/2020: ban on crackers having regard to poor and below air quality

¹⁹ OA 773/2018, Metro Transit Private Limited v. South Delhi Municipal Corporation & Ors.

17. Vide order dated 01.12.2020, in OA 249/2020, *Tribunal on its own motion v. Ministry of Environment, Forest & Climate Change & Ors.*, the Tribunal imposed ban on sale and use of fire crackers in all cities/towns where air quality was 'poor' and 'below' and restricted their use where air quality was 'moderate' or 'below' to green crackers only upto 2 hours on specified festivals. It was also directed that atleast one AAQMS must be set up at every District Headquarter and if online station was not possible atleast a manual station was required to be set up which did not cost much. Air quality data was also directed to be placed on the website of the District Administration. Direction as also issued for assessment and recovery of compensation for violations.

d. Order dated 14.11.2019 in O.A. No. 1038/2018, order dated 23.07.2018 in O.A No. 451 of 2018, order dated 17.03.2021 in O.A. No. 67/2019 and order dated 17.02.2021 in O.A. No. 1016/2019 – polluted industrial areas, crop residue burning, use of pet coke as fuel and brick kilns in NCR

18. The Tribunal has also considered the issues of remedial action against pollution as indicated by Comprehensive Environmental Pollution Index (CEPI) showing 100 industrial areas polluted vide order dated 14.11.2019 in OA No. 1038/2018, *News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels"*, vide order dated 23.07.2018 in O.A No. 451 of 2018, *Smt. Ganga Lalwani V. Union of India and Ors.*, on the subject of regulation and control of pollution by burning of crop residue, vide order dated 17.03.2021 in OA No. 67/2019, *Sumit Kumar v. State of Himachal Pradesh & Ors.*, on the subject of control of pet coke and vide order dated 17.02.2021 in OA No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.* on the subject of regulation and control of brick kilns and issued directions.

e. Order dated 03.12.2020 in OA 283/2020: Dust Control during road sweeping

19. Vide order dated 03.12.2020 in OA 283/2020, *R.S. Virk v. Central Pollution Control Board*, the Tribunal directed all Municipal Corporations, local bodies in the NCR and other cities where air quality was 'poor' and above to take steps **to ensure sprinkling of water before sweeping of roads, using treated water from STPs and to take steps for planting of grass/raising small herbs and shrubs on the sides of the pavements/road shoulders and on open dusty areas, including the areas on the sides of the pavements/right of way. Also directed that the pavements may also be appropriately covered so as to prevent generation of dust. It was also directed that the issue of stopping burning of biomass/waste and construction and demolition activities be duly regulated and the local bodies may send their action taken reports to the Principal Secretaries, Environment heading the AQMCs every quarter, who may thereafter send their reports to CPCB.**

f. Order dated 05.02.2021 in OA No. 95/2018: Need for Data Grid for better planning and monitoring

20. The Tribunal, vide order dated 05.02.2021 in OA No. 95/2018, *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors.*, referred to the need for authentic data being compiled to facilitate planning and monitoring. It was observed:

"20. Further, for improving monitoring and planning, authentic data needs to be compiled at all levels. Initiative will have to be taken consistent with Digital India initiatives by the MoEF/MoJS/MoUD/CPCB and based on such policy decisions, the Environment departments of all States/UTs will have to compile data in their respective jurisdiction, preferably District-wise. On that basis District Environment Data Grid (DEDG), State Environment Data Grid (SEDG) and National Environment Data Grid (NEDG) can be set up and continuously updated. The Grid can be connected to online monitoring systems. Comprehensive Environment Pollution

Index (CEPI) is being prepared limited to the Industrial Area but the Grid can cover larger areas and aspects and can be source of research and planning. It can also facilitate monitoring of and be in sync with other government initiatives such as National Mission for Clean Ganga, Swachh Bharat and Jalshakti Abhiyan etc. Based on such data, it may also be easier to study ‘carrying capacity’ of different areas to plan siting policy for various activities.

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viii. *Consistent with Digital India initiatives, MoEF&CC/MoJS/CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) DEDGs and further linked to available portals like online air/water quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to initiatives like NMCG/Swachh Bharat/Jal Jeevan Mission.”*

IV. Review of compliance status of directions for remedial action - Orders in this matter dated 15.03.2019, 06.08.2019, 20.11.2019 and 21.08.2020

Order dated 15.3.2019: First review of progress of implementation of directions dated 8.10.2108. Further directions in view of inadequate progress

21. Vide order dated 15.03.2019, the Tribunal considered the status of compliance by various States/UTs in the matter of preparing and executing action plans for control of air pollution in pursuance of order dated 8.10.2018. **Since there was large scale non-compliance, further directions were issued.**

Order dated 06.08.2019: Second review of progress in preparing and executing action plans and to include Noise control measures and develop Emergency Response systems with mock drills

22. Further review was undertaken vide order dated 06.08.2019.

Following questions were framed for consideration:

a. Whether a robust nationwide real time online continuous ambient air quality monitoring programme has been designed as

admittedly there are shortcomings in the current air quality monitoring regime in view of area coverage and quality of data?

- b. Whether more cities have been identified as NACs and strategy to deal with the same has been prepared?*
- c. Whether the States with NACs have prepared time bound and budgeted Action Plans for bringing the air quality of NACs in their States within the prescribed norms?*
- d. Whether the components of such Action Plans are in conformity with the directions in order dated 08.10.2018²⁰?*
- e. Whether environmental compensation regime has been designed on 'Polluter Pays' principle?*
- f. Whether CPCB, SPCBs and PCCs have developed a public grievance redressal portal?*
- g. Further directions to deal with the situation."*

23. Status with reference to each of the above questions was examined and following directions were issued:

- I. CPCB, SPCBs and PCCs need to ensure assessment and installation of the requisite number of real time Online Continuous AAQMS within six months from today and indicate progress in this regard before the next date.*
- II. The Expert Team of CPCB to design a model/SOP for source apportionment and carrying capacity assessment within two months which may be replicated for all the NACs. In the light of such study, further action may need to be considered by MoEF&CC within three months thereafter in terms of regulating the number of vehicles, action in terms of shift to e-vehicles and CNG vehicles, intensifying public transport system, mechanical cleaning of roads, enhancement of public parking facilities etc., improvement in fuel quality and traffic management, regulation of construction activities, strict adherence to siting guidelines with regard to stone crushers, mining, brick kilns, thermal power plants, coal handling, air polluting industries, hot mix plants, etc. Besides, activities like crop burning and burning of trash wood/leaves/debris for heating in winters to be strictly regulated and violations penalized as has been done by notifications for ESZ, CRZ, Ganga Flood plains etc.*
- III. Concerned Town & Country Planning departments (with whatever be the name in the State) of all the States/UTs may ensure review of master plans specially for the NACs to be consistent with carrying capacity and source apportionment study reports within six months of such reports being available and furnish compliance reports to this Tribunal and CPCB.*

²⁰ (I) Identification of source of pollution; (II) Determining source apportionment including sectors like vehicular pollution, industrial pollution, dust pollution, construction activities, garbage burning, agricultural pollution including pollution caused by burning of crop residue, residential and indoor pollution etc; (III) measures for strengthening of Ambient Air Quality (AAQ) monitoring and (IV) Steps for public awareness including issuing of advisory to public for prevention and control of air pollution and involvement of schools, colleges and other academic institutions and awareness programmes.

- IV. *Concerned States may evolve enforcement mechanism for closing/ shifting of industrial units other than household industries from residential/non-conforming areas in the light of law laid down in M.C. Mehta vs Union of India, (2004) 6SCC 588.*
- V. *SPCBs/PCCs need to develop interactive public grievance redressal portals on the pattern of CPCB portal "Sameer" within two months if not already done.*
- VI. *Actions Plans need to be prepared by States for the additional 20 NACs on the pattern of 102 NACs within three months and after its approval by CPCB within two months, States must initiate time bound action on remediation within next three months.*
- VII. *CPCB may finalize the pending action plans within two months. Environmental compensation may be deposited by the defaulting States in terms of our order dated 15.03.2019 with the CPCB.*
- VIII. *Timeline prescribed for reviewing action plans with regard to its report dated 15.07.2019 by the CPCB for further micro planning may be reduced from six months, preferably to four months. CPCB may give appropriate directions to the SPCBs/PCCs accordingly.*
- IX. *CPCB must forthwith come out with a compensation regime within two months for air as well as noise pollution to the extent such norms have not yet been laid down.*
- X. *Having regard to adverse impact on public health and constitutional mandate that right to clean air is a fundamental right, the MoEF&CC may modify the NCAP by reducing the timelines and increasing the target for reduction of air pollution.*
- XI. *Noise Limiters need to be installed on potential noise polluting devices, including retrofitting the existing devices. Appropriate directions be issued by the States/UTs within three months in the same manner as directed by this Tribunal for Delhi vide order dated 01.08.2019 in O.A. No. 519/2016, Hardeep Singh & Ors. vs SDMC & Ors.*
- XII. *The CPCB may also evaluate existing air quality monitoring mechanism of all States and UTs and furnish a report to this Tribunal before the next date in terms of capacity of its scientific and technical personnel both in terms of number of personnel and skill/competence and outreach programmes on public awareness and suggestions for improvement.*
- XIII. *The CPCB and States may have robust Emergency Response System and preparedness by way of mock drills and measures to be taken in the scenario when air pollution levels become severe plus and severe.*
- XIV. *The SPCBs and PCCs to submit details of 'consent' funds to CPCB and this Tribunal within two months alongwith Action Plans on the basis of template provided by CPCB. CPCB may scrutinize and approve such action plans within two months in accordance to our*

order dated 22.01.2019 in O.A. No. 101/2019. Finally, the State PCBs and PCCs may execute their Action Plans within next one year thereafter.

- XV. *The Environmental Compensation levied by State Transport Departments may be divided in the ratio of 50:25:25 amongst the States, the SPCBs/PCCs and the CPCB.”*

Order dated 20.11.2019: Third review of progress – direction to remedy inadequate monitoring and enforcement by strict enforcement of polluter pays principle and steps for accountability by way of adverse ACR entries exploring use of Campa Funds

24. Thereafter, vide order dated 20.11.2019, further progress was reviewed with reference to the directions issued on 6.8.2019 in the light of the report dated 14.11.2019 filed by the CPCB. Since progress achieved was not adequate, further directions were issued on the issues earlier considered as well as the issue of tackling the problem of remediation of legacy waste dump sites which were also a source of air pollution, adversely affecting public health. Directions issued in the said order are:

“29. In view of above, we direct as follows:

- i) *Let assessed number of stations be installed within one year and quarterly progress reports furnished to CPCB by all the SPCBs/PCCs. First such report may be furnished by 01.04.2020. All such stations should be connected to the server of the CPCB and data displayed at the national portal on online real-time basis with AQI in public domain. CPCB may have its own stations at such critical locations as considered necessary. All the 12 notified parameters should be duly monitored by the CAAQMS. In default of compliance, SPCB/PCCs will be liable to pay compensation @Rs. 5 Lakh per month starting from 01.01.2021. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*

Procurement of such equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- ii) *Let SA and CC be completed within three months by the SPCBs/PCCs utilizing available data, based on which MoEF&CC may take further follow up action in terms of direction para II of order dated 06.08.2019 quoted above. SPCBs/PCCs may furnish action taken report to CPCB so*

that CPCB can file an appropriate report before this Tribunal. For any default, compensation will be liable to be paid @ of Rs. 5 lakh per month after 01.04.2020. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. MoEF&CC may file compliance report before the next date.

- iii) The review of master plans may now be carried out in the light of the studies within six months from the date of such studies in above terms. Mechanism for shifting industrial units from residential areas may be evolved immediately. Let both these aspects be complied by the all the States/UTs and reports furnished to the CPCB. The Chief Secretaries concerned may monitor compliance. In default, the concerned States/UTs will be liable to pay compensation @ Rs. 5 lakhs per month after the stipulated timeline already mentioned. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments. The CPCB may prepare a comprehensive report and furnish the same before the next date.*
- iv) PGRPs may be developed for the remaining NACs and report furnished by the SPCBs/PCCs to CPCB within two months. In default, SPCBs/PCCs concerned will be liable to pay compensation @ Rs. 2 lakhs per month from 01.02.2020. CPCB may file a compliance report. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs.*
- v) Compliance may also be ensured for the remaining cities and report furnished to CPCB by the States/UTs by 31.01.2020. In default, compensation will be liable to be paid @ Rs. 10 lakhs per month from 01.02.2020. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the Heads of the Departments concerned.*
- vi) Let the approved action plans be executed accordingly in terms of the timeline provided therein and compliance report furnished by Chief Secretaries of the concerned States/UTs to CPCB on quarterly basis starting from 01.04.2020. CPCB may file compliance report before this Tribunal. Failure on this regard may be visited with adverse consequences.*
- vii) Let the States/UTs ensure compliance of directions with regard to the remaining cities in terms of observations in Para 18 within by 30.06.2020. In default, the States/UTs will be liable to pay @ Rs. 5 lakhs per month till compliance. The compensation may be recovered by the States/UTs from the erring officers and appropriate entries may also be made in the ACRs of the concerned Heads of the Departments.*
- viii) Let the NCAP be revisited in terms of observations in Para 20 before the next date, failing which the Tribunal have no*

option except to take coercive measures against concerned officers.

- ix) Let the directions for control of noise pollution be complied with in terms of observations in Para 21 and report furnished to CPCB by 31.03.2020. CPCB may furnish a comprehensive report to this Tribunal. If the said direction is not complied with, the defaulting States/UTs will be liable to pay compensation @ Rs. 2 lakhs per month which may be collected by the CPCB and recovered from the salary of the concerned Heads of the Departments.*

Procurement of requisite equipments may preferably be through Government E-marketing (GeM) Portal of Govt. of India. CPCB may take steps to have standards/specifications and accredited/reputed vendors notified on the said portal. CEO, GeM, may also take necessary steps in the matter.

- x) Let the evaluation of monitoring stations be done positively by 31.12.2019 in terms of observations in Para 22 and a compliance report filed before the next date. As already directed, the evaluation should not only be sound in terms of scientific and technical capacity but also effectiveness of the outreach programme.*
- xi) Let the steps for ERS be taken as per observations in Para 23 and compliance report filed before the next date. The States have not given their response which may now positively be done within one month, failing which the Tribunal have no option except to take coercive measures against concerned officers.*
- xii) The Chhattisgarh State PCB is directed to take remedial steps and modify its action plan on the subject of EC and Consent funds in terms of instructions of CPCB and direction of this Tribunal. Fresh action plan may be furnished to CPCB by 31.01.2020. We also disapprove the inaction by other SPCBs/PCCs in not complying with the directions. All other SPCBs/PCCs may give their action plans latest by 31.01.2020. In default, the erring SPCBs/PCCs will be liable to pay environmental compensation @ Rs. 5 lakhs per month till compliance of the directions which may be liable to be recovered from the concerned Chairmen and Member Secretaries. Failure may also be reflected in the ACRs of the Member Secretaries of SPCBs/PCCs. CPCB may file a consolidated report on the subject before the next date.*
- xiii) It needs to be explored by the MoEF&CC and concerned States/UTs whether a part of CAMPA funds can be utilized for special afforestation drive in 122 NACs. If so, further necessary action be taken and a report furnished to this Tribunal by the MoEF&CC before the next date.*
- xiv) Apart from other steps, focused attention may be required to ensure bio-remediation of legacy waste dump sites for which*

this Tribunal has already issued exhaustive directions in O.A. No. 519/2019 as already noted in para 9 above.

- xv) With regard to finalization of Emergency Response System (ERS), we are of view that the State Disaster Management Authorities in coordination with the SPCBs/PCCs and State Units of Meteorological Departments may include emergency as a part of disaster management and develop ERS accordingly which may be placed in public domain.*
- xvi) The States/UTs which are able to successfully control air pollution in measurable terms in respect of 122 NACs may place their successful models and best practices on their respective websites for the benefit of others.”*

Order dated 21.08.2020: Fourth Review of progress in actions plans for control of air and noise pollution in terms of earlier directions in the light of report about compliance status

Major deficiencies in compliance status found and further directions issued: inadequate monitoring stations, lack of SA and CC studies, lack of micro planning, inadequate procurement of equipments for control of noise, lack of adequate initiatives in remedying legacy waste sites, lack of coordination with disaster management authorities to prevent environmental disasters – remedial directions

25. The matter was last considered on 21.08.2020 in the light of reports of CPCB dated 06.03.2020, 21.07.2020 and report dated 18.08.2020 of the MoEFF&CC, declining to reduce time for abating air pollution under NCAP and two reports dated 06.03.2020 and 15.07.2020 filed by the Oversight Committee for compliance of environment issues for the State of UP, headed by Justice SVS Rathore, former Judge of the Allahabad High Court at Lucknow.²¹ The Tribunal reviewed the progress pointwise and also considered report of Ministries of Road Transport & Highways and Urban Development dated 16.06.2020 with reference to order in OA 773/2018 on overlapping issue. The operative part of the order containing directions on consideration of all the issues is as follows:

“I. Directions:

²¹ Constituted Vide order dated 16.03.2020, OA 670/2018, Atul Singh Chauhan v. Ministry of Environment, Forests and Climate Change & Ors.

30. In view of the above, the directions are summed up as follows:

- i. The work of completing remaining 175 monitoring stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month, which may be monitored by the CPCB, by holding periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The funds available under the 'consent mechanism'/'environmental compensation' may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/State PCBs/PCCs jointly (with CPCB financing out of its EC funds), following an appropriate procedure to ensure best price and quality;
- ii. Carrying Capacity and Source Apportionment studies may be simultaneously undertaken by the State PCBs/PCCs, utilizing the 'consent mechanism'/'environmental compensation' fund. Work in this regard may commence within one month and completed in six months. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs in same manner as in direction i. It will be preferable that 25 such studies are conducted jointly by CPCB/State PCBs/PCCs (with CPCB financing out of its EC Funds) to set a pattern;
- iii. Let further steps of prohibiting/shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to 'Sustainable Development' principle be taken by the States/UTs;
- iv. The States may take further steps to set up and operate PGRPs expeditiously, within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the direction of protection of environment. In particular analysis may be undertaken about the number of complaints received, effective steps for redressal taken and improvement achieved and planned. Such exercise may be ongoing but in the first instance may be compiled as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter;
- v. Action plans for newly added 20 NACs be completed expeditiously on the pattern of such plans for 102 cities, already prepared;
- vi. All the concerned States/UTs may execute action plans, including control of stubble burning, where ever necessary and bursting polluting and noise generating fire crackers and give information about the status of compliance of action plans as on 31.12.2020 to CPCB

before 15.1.2021. They may also give information in a tabulated form about the extent of improvement achieved, if any, in terms of reduction in pollution load. Steps in terms of action plans completed, actions ongoing and actions incomplete;

- vii. Detailed micro level planning be undertaken in respect of each NAC by the concerned State/UT expeditiously and status as on 31.12.2020 be furnished to the CPCB within one month thereafter;*
- viii. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans for control of noise pollution and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020. Compensation regime for violations of noise pollution be applied by all the States/UTs;*
- ix. We find that NCAP for reduction of air pollution does not fully meet the mandate of sustainable development. Violation of laid down air pollution levels resulting in large number of deaths and diseases needs to be addressed expeditiously. Targeted time of reduction of pollution loads needs to be reduced and planned steps need to be sternly implemented on the ground. MoEF&CC may take further action as per law in the light of observations in para 19 above.*

The States may utilize CAMPA funds, undertaking special afforestation drives in forest lands or other permissible locations in 122 NACs as per CAF Act, 2016 to abate pollution in the said cities. The CEO of CAMPA may hold a video conferencing with all the States PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds;

- x. Let all the States/UTs take further action for procurement of equipments and taking other steps for control of noise pollution in 122 NACs as discussed in para 20 above and direction (viii) above, including applying compensation regime prepared by the CPCB and file their respective reports of status of compliance as on 31.12.2020 by 15.1.2021;*
- xi. Let further steps be taken by all the States/UTs to finalise ERSs in terms of suggestion of the CPCB as quoted above in para 24, constituting a suitable mechanism similar to Task Force under GRAP for Delhi-NCR and information furnished to the CPCB by 31.12.2020;*
- xii. let further steps be taken to plan utilisation of consent/EC funds by all the State PCBs/PCCs in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, Ashish Kumar Dixit v. State of Uttar Pradesh & Ors by 31.12.2020. It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.*
- xiii. Let CPCB issue a fresh direction with regard to the remediation of legacy waste sites in the light of*

deficiencies noticed by the CPCB and coordinate further action with the concerned Urban Development /Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. Where ever legacy waste sites remediation has not commenced, it may commence earliest having regard to the fact that timeline under statutory rules to complete such action is 7.4.2021 and continued delay is detrimental to public health and environment. Information of compliance status as on 31.12.2020 be furnished to CPCB in terms of observations in para 24 above;

- xiv. All the States/UTs and PCB/PCCs may take steps to coordinate with the State Disaster Management Authorities and Meteorological Departments. The observations of this Tribunal while dealing with the problem of frequent environmental disasters in order dated 23.07.2020 in OA 134/2020, News Item published on 13.07.2020 in daily "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported" may also be taken into account. Action taken reports be filed with the CPCB for submission of consolidated report to this Tribunal;
- xv. MoRTH may take further prompt action of undertaking carrying capacity studies with regard to road infrastructure, specially in 122 NACs, through Central Road Research Institute or any other agency which may be financed by CPCB out of compensation funds or otherwise. On that basis, proper policies be prepared to deal with the number of vehicles beyond parking capacity or carrying capacity and permitting entry or registration of number of vehicles, parking areas etc. This is necessary to reduce congestion, unregulated parking and air pollution loads in 122 NACs. CPCB may coordinate with the concerned Ministries and acquaint this Tribunal with the outcome in its next report;
- xvi. The recommendations of the Oversight Committee for the State of UP, in its report dated 15.07.2020, need serious consideration and action by the concerned authorities in the State of UP. The Chief Secretary, UP may ensure further action in the State at different levels which may be coordinated and overseen by the Monitoring Committee. The oversight Committee may give its further independent report to this Tribunal before the next date by e-mail;
- xvii. In view of continued violation of law on significant environmental issues, to give effect to rule of law and Constitutional mandate of clean environment and for protection of public health and environment, monitoring must be done at the level of Chief Secretaries at least once in a month and the Chief Secretaries must have environment cells attached to their offices, as earlier directed by the Hon'ble Supreme Court and this Tribunal in OA 606/2018;
- xviii. CPCB may file its consolidated report by email by January 31, 2021."

V. Consolidated Report of CPCB dated 05.04.2021 with regard to compliance status of directions dated 21.8.2020

26. Accordingly, CPCB has filed its further consolidated report on 05.04.2021 in continuation of earlier reports dated 09.11.2020 and 15.02.2021 mentioning the pointwise status as follows:

“i. The work of completing remaining 175 monitoring stations needs to be expeditiously completed within next six months. Work in this regard may commence within one month, which may be monitored by the CPCB, by holding periodical online meetings with the Chairman/Member Secretaries of State PCBs/PCCs or other authorities. The funds available under the ‘consent mechanism’ /environmental compensation’ may be utilized for the purpose by the State PCBs/PCCs. It will be preferable that out of the above, 25 stations are set up by CPCB/State PCBs/PCCs jointly (with CPCB financing out of its EC funds), following an appropriate procedure to ensure best price and quality;

As per the Direction of Hon’ble NGT, 20 new Continuous Ambient Air Quality Monitoring Stations (CAAQMS) have been installed in non-attainment cities during the period and as on date 193 CAAQMS installed in non-attainment cities. Other states are in process of installation of the monitoring station as per the criteria and information is being collected by CPCB.

The proposal for setting up of 25 CAAQM Stations in Non-Attainment Cities has been approved under EC funded project for Rs. 25 crores by CPCB. Capital cost Rs. 1 crore per station has been sanctioned to 20 States/Uts for installation of CAAQM Stations in the identified 25 Non-Attainment cities (ANNEXURE -I). The Operation & Maintenance cost shall be borne by respective SPCB/PCC. Sanction letter has been issued to respective SPCBs for signing of TOR to release funds.

ii. Carrying Capacity and Source Apportionment studies may be simultaneously undertaken by the State PCBs/PCCs, utilizing the ‘consent mechanism’ I ‘environmental compensation’ fund. Work in this regard may commence within one month and completed in six months. State PCBs/PCCs will be at liberty to either undertake the study in-house or by hiring any other agencies. However, as far as possible a uniform policy may be adopted in this regard which may be finalized by the CPCB in consultation with all State PCBs/PCCs in same manner as in direction i. It will be preferable that 25 such studies are conducted jointly by CPCB/State PCBs/PCCs (with CPCB financing out of its EC Funds) to set a pattern;

As per information provided by states, Source Apportionment (SA) study is Completed in 09 States (14 cities); under progress in 15

States (68 cities); and in proposal stage in 14 States (40 cities). The detail status is enclosed at ANNEXURE -II.

Carrying capacity (CC) study is under progress in 9 States (42 cities); and in proposal stage in 18 States (51 cities). The detail status is enclosed at ANNEXURE -III.

CPCB requested SPCBs/PCCs to propose the name of the 2-3 cities from their respective states for joint SA and CC studies. 25 non-attainment cities are identified, based on the criteria developed by CPCB and in concurrence with SPCBs/PCCs. These studies shall be done based on framework/ methodology prepared by CPCB by using CPCB EC Funds. The list of identified cities is enclosed at ANNEXUREIV.

iii. Let further steps of prohibiting/shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to ‘Sustainable Development’ principle be taken by the States/UTs;

Status for steps of prohibiting/ shifting polluting activities which are found unsustainable/ non-conforming and beyond carrying capacity of NACs is provided by 22 states/UTs (Jammu & Kashmir, Uttarakhand, Telangana, Delhi, West Bengal, Punjab, Uttar Pradesh, Himachal Pradesh, Andhra Pradesh, Karnataka, Maharashtra Chhattisgarh, Meghalaya, Madhya Pradesh, Nagaland, Bihar, Assam, Rajasthan, Tamilnadu, Chandigarh, Odisha and Gujarat). Jharkhand has provided action point regarding shifting of polluting industries in city action plan. The detail status is enclosed at ANNEXURE –V

Karnataka, Tamilnadu, Andhra Pradesh, Himachal Pradesh, Maharashtra, Chhattisgarh, West Bengal, Assam, Punjab, Chandigarh, SPCBs/PCCs have informed that the “steps of prohibiting/shifting polluting activities which are found unsustainable/non-conforming and beyond carrying capacity of NACs, as a consequence of SA/CC Studies or otherwise, to other locations, in the interest of public health and protection of environment to give effect to ‘Sustainable Development’ principle” will be done after completion of SA and CC studies.

Uttar Pradesh SPCB informed that a letter regarding shifting / prohibiting the industries in the non-conforming areas had been issued from the office of Principal Secretary, Environment, Forest & climate Change, to the Additional Chief Secretaries/ Principal Secretaries of the all the concerned departments and a meeting of Oversight Committee was held on 21.12.2020, wherein various steps has been proposed like constituted District level Committee and other nodal departments from mapping and closure of non-conforming areas and Ensuring scrutinization and geotagging of the electricity connections to prevent reissuing of electric connections to the illegal units.

Rajasthan SPCB informed that the work is not related to the state board.

iv. The States may take further steps to set up and operate PGRPs expeditiously, within three months. The CPCB as well as State PCBs/PCCs may evaluate functioning of such portals on real time basis in the direction of protection of environment. In particular analysis may be undertaken about the number of complaints received, effective steps for redressal taken and improvement achieved and planned. Such exercise may be ongoing but in the first instance may be compiled as on 31.12.2020 and report filed by the State PCBs/PCCs with the CPCB within one month thereafter;

The Public Grievance Redressal Portal (PGRPA) on the pattern of Sameer app for Non-attainment cities is developed by 15 States (Uttarakhand, Jammu & Kashmir, Gujarat, Rajasthan, Meghalaya, Maharashtra, Madhya Pradesh, Himachal Pradesh, Andhra Pradesh, Telangana, Uttar Pradesh, West Bengal, Odisha, Punjab and Delhi) & the same is under development in 3 States (Tamilnadu, Nagaland & Chandigarh). Dedicated helpline numbers/web portal to address grievances are provided by 7 States (Assam, Chhattisgarh, Jharkhand, Karnataka, Nagaland, Tamilnadu, & Bihar). The details along with the redressal status are enclosed at ANNEXURE- VI

With regard to complain redressal status detail provided by Delhi, Himachal Pradesh, Madhya Pradesh and Uttar Pradesh is given below:

S. No.	State	Status of Complaints		
		No. of Complaints received	Effective steps	Remarks
1.	Delhi	4624	2764 complaints resolved (60 %)	Between 07.10.2020 to 31.12.2020 (2 PM) in Delhi-NCR region
2.	Himachal Pradesh	28	26 complaints resolved (93 %)	From 01.04.2020 to 31.12.2020
3.	Madhya Pradesh	20	No information provided	Till 14.12.2020
4.	Uttar Pradesh	59	57 complaints resolved (97 %)	Between June 2020 08.01.2021
5.	Gujarat	No complaints received till date		

West Bengal SPCB informed that the details of complaints received on portal will be submitted shortly.

No information is provided by 17 states (Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Jammu & Kashmir, Jharkhand, Karnataka, Maharashtra Meghalaya, Nagaland, Odisha, Punjab,

Rajasthan, Tamilnadu, Telangana, Uttarakhand and Bihar, regarding Status of Complaints on Public Grievance Redressal Portal.

v. Action plans for newly added 20 NACs be completed expeditiously on the pattern of such plans for 102 cities, already prepared;

As per Hon'ble NGT order of O.A. No. 681/2018 and criteria finalized by CPCB for categorizing non-attainment cities. **List of non-attainment cities has been updated by CPCB based on data for the period of 2015-2019 on 21.10.2020 and 02 more cities namely Gorakhpur in Uttar Pradesh and Madurai in Tamilnadu added to the list. The total 124 non-attainment cities identified based on air quality data for the period of 2015-2019.**

Out of total 22 newly added NACs, 21 city action plans, West Bengal (Asansol, Barrackpore, Durgapur, Haldia, Howrah & Raniganj), Odisha (Kalinganagar), Gujarat (Vadodara), Andhra Pradesh (Anantapur, Chittoor, Elum, Kadapa, Ongole, Rajahrnundry, Srikakulam & Vizianagaram), Uttarakhand (Dehradun), Tamilnadu (Trichy & Madurai), Uttar Pradesh (Gorakhpur) and Telangana (Sangareddy) are approved for implementation; one city Maharashtra (Thane) was requested to submit revised plans as per the recommendation of the three member committee;

vi. All the concerned States/UTs may execute action plans, including control of stubble burning, where ever necessary and bursting polluting and noise generating fire crackers and give information about the status of compliance of action plans as on 31.12.2020 to CPCB before 15.1.2021. They may also give information in a tabulated form about the extent of improvement achieved, if any, in terms of reduction in pollution load. Steps in terms of action plans completed, actions ongoing and actions incomplete;

Action taken/information received from Delhi, Andhra Pradesh, Tamilnadu, Uttarakhand, Punjab, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Bihar, Nagaland, Uttar Pradesh, Chhattisgarh, Odisha, Karnataka and Jammu & Kashmir.

Rajasthan SPCB communicated that this Direction is not related to the State board and Assam PCB informed that there are no issues related to stubble burning.

No information received from other states (Chandigarh, Gujarat, Jharkhand, Meghalaya and Telangana). Details are enclosed at ANNEXURE-VII.

vii. Detailed micro level planning be undertaken in respect of each NAC by the concerned State/UT expeditiously and status as on 31.12.2020 be furnished to the CPCB within one month thereafter;

CPCB prepared a uniform robust format to address micro level activities for the sources covered under city action plans and has been shared with respective SPCBs/PCCs. Detailed and updated submission in the format shall facilitate preparation of micro-level plan as well as streamlined monitoring of implementation of city plans in the city. Such a format shall also aid in transitioning to a dynamic digitized reporting system in future

Micro level planning has been submitted by Uttar Pradesh (Agra, Allahabad, Anpara, Bareilly, Firozabad, Gajraula, Ghaziabad, Jhansi, Kanpur, Khurja, Lucknow, Moradabad, Noida, Meerut, Raebareli and Varanasi), Uttarakhand (Kashipur & Rishikesh), Maharashtra (Akola, Amravati, Aurangabad, Badlapur, Chandrapur, Jalgaon, Jalna, Kolhapur, Latur, Mumbai, Nagpur, Nashik, Navi Mumbai, Pune, Sangli, Solapur, Ulhasnagar, Thane & Vasai-Virar), Andhra Pradesh (Guntur, Kumool, Nellore, Vijayawada & Vishakhapatnam), West Bengal (Kolkata, Asansol, Barrackpore, Durgapur, Haldia, Howrah & Raniganj), Telangana (Hyderabad & Patancheru), Himachal Pradesh (Baddi, Damtal, Kala Amb, Nalagarh, Paonta Sahib, Parwanoo & Sunder Nagar), Tamilnadu (Thoothukudi, Trichy, Madurai & Chennai), Chhattisgarh (Bhilai & Raipur), Rajasthan (Jaipur, Jodhpur & Kota), Meghalaya (Byrnihat), Bihar (Patna), Gujarat (Surat, Vadodara & Rajkot), Haryana (Faridabad), Jharkhand (Dhanbad, Jamshedpur & Ranchi), Karnataka (Bengaluru), Madhya Pradesh (Bhopal, Dewas, Indore, Sagar, Ujjain, Gwalior & Jabalpur), Punjab (Ludhiana & Amritsar) and Nagaland (Dimapur & Kohima)

Assam, Karnataka and Punjab SPCB inform that the Micro Planning of Actions of non-attainment city/towns will be done after completion of Source Apportionment and Carrying Capacity Study.

viii. The States/UTs may address the gaps communicated by the CPCB with respect to the action plans for control of noise pollution and the States/UTs which have not yet furnished their action plans may do so positively by 31.12.2020. Compensation regime for violations of noise pollution be applied by all the States/UTs;

A Separate report will be filed to Hon'ble NGT against the Direction by CPCB.

ix. We find that NCAP for reduction of air pollution does not fully meet the mandate of sustainable development. Violation of laid down air pollution levels resulting in large number of deaths and diseases needs to be addressed expeditiously. Targeted time of reduction of pollution loads needs to be reduced and planned steps need to be sternly implemented on the ground. MoEF&CC may take further action as per law in the light of observations in para 19 above. The States may utilize CAMPA funds, undertaking special afforestation drives in forest lands or other permissible locations in 122 NACs as per CAF Act, 2016 to abate pollution in the said cities. The CEO of CAMPA may hold a video conferencing with all the States PCBs/PCCs to coordinate and facilitate the utilization of CAMPA Funds;

x. Let all the States/UTs take further action for procurement of equipments and taking other steps for control of noise pollution in 122 NACs as discussed in para 20 above and direction (viii) above, including applying compensation regime prepared by the CPCB and file their respective reports of status of compliance as on 31.12.2020 by 15.1.2021;

A Separate report will be filed to Hon'ble NGT against the Direction by CPCB.

xi. Let further steps be taken by all the States/UTs to finalise ERSs in terms of suggestion of the CPCB as quoted above in para 24, constituting a suitable mechanism similar to Task Force under GRAP for Delhi-NCR and information furnished to the CPCB by 31.12.2020;

*The Emergency Response System (ERS) – GRAP for Non-attainment cities is developed/part of action plan by 15 states (Jammu & Kashmir, Himachal Pradesh, Uttar Pradesh, Andhra Pradesh, Punjab, Chandigarh, Delhi, Bihar, Tamilnadu, Odisha, Nagaland, Gujarat, Maharashtra, Meghalaya and Telangana) and development is under process in 03 states (Uttarakhand, Rajasthan (for Alwar city ERS prepared) and Assam). GRAP is being prepared in **Chhattisgarh**.*

For Madhya Pradesh GRAP is prepared for Indore, Bhopal, Gwalior & Jabalpur (GRAP development under process in Dewas, Sagar & Ujjain), for Jharkhand GRAP is prepared for Ranchi & Jamshedpur (no information is available for Dhanbad), for West Bengal GRAP is prepared for all cities except Kolkata, for Karnataka GRAP is prepared for Bengaluru (no information is available for Devanagere, Gulbarga and Hubli-Dharwad),

As informed by Karnataka SPCB, Proposal is being sent to Revenue Dept., Govt. of Karnataka to include MS, KSPCB as a member of Disaster Management Authority. The details are enclosed at ANNEXURE -VIII.

xii. let further steps be taken to plan utilization of consent/EC funds by all the State PCBs/PCCs in the light of order of this Tribunal on the subject dated 24.07.2020 in O.A. No. 102/2019, Ashish Kumar Dixit v. State of Uttar Pradesh & Ors by 31.12.2020. It will be preferable that MoEF&CC with assistance of CPCB lays down an institutional mechanism on the pattern of CAMPA or otherwise for proper utilization of consent and EC funds available with CPCB/State PCBs/PCCs.

As per the direction of Hon'ble NGT order O.A. No. 681/2018 dated 20.11.2019, a Committee is constituted in CPCB to review and approve the Action Plans for utilization of consent funds. 01st meeting of the Committee was convened on 13-02-2020 and action plans received from 14 SPCBs/PCCs were discussed in detail. The

Committee proposed that revised action plans as per the templates proposed by CPCB may be submitted.

The 2nd Meeting of the Committee was convened on 07.08.2020 to review the action plans received from 07 State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) namely Assam, Chandigarh, Chhattisgarh, Himachal Pradesh, Jammu & Kashmir, Meghalaya and Punjab. All the seven plans were placed before the Committee for consideration and approval. The Committee examined these action plans and action plans of Chandigarh PCC, Chhattisgarh Environment Conservation Board, Himachal Pradesh SPCB, Jammu & Kashmir PCB and Punjab SPCB were approved.

A meeting was convened on 15-01-2021 through Video Conferencing under the Chairmanship of Dr. Prashant Gargava, MS-CPCB with the State Pollution Control Boards (SPCBs)/ Pollution Control Committee (PCCs) to discuss the action plans and proposed the following:

- 1. SPCBs/PCCs shall prepare and submit Action Plans in line with orders of Hon'ble NGT, state specific requirements & priorities and effective utilization of funds before 31st January 2021 to CPCB;*
- 2. SPCBs/PCCs shall provide the Annual collection of Consent and Environmental Compensation (EC) Funds to CPCB;*
- 3. SPCBs/PCCs shall clearly specify the availability of Consent and Environmental Compensation Funds for execution of Action plans;*
- 4. Action Plans for utilization of Consent and EC Funds shall be as per the Template provided by the Hon'ble NGT addressing the priority issues of SPCBs;*
- 5. State level Committee shall be constituted for approval of action plans before submitting to CPCB and ;*
- 6. Monitoring mechanism may be developed for execution of action plans by SPCBs/PCCs.*

Meeting of the Committee for Utilization of Environmental Compensation (EC) Funds was convened on 18.02.2021 to review the action plans received from State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) in compliance of the Hon'ble NGT order O.A. No. 102/2019 dated 24.07.2020.

The Committee examined in detail the action plans received from 16 SPCBs and 03 PCCs, summary recommendations are given below:

- Andaman & Nicobar, Assam, Jammu & Kashmir, Meghalaya, Mizoram, Nagaland and Puducherry SPCBs/PCCS does not have sufficient EC funds for execution of action plans*
- Andhra Pradesh, Chandigarh and Sikkim have submitted action plans for more than the cost of EC Funds availability;*
- The Action plan for Himachal Pradesh SPCB has already been approved by the Committee in the meeting held on 07.08.2020;*

- Kerala, Rajasthan and Tamil Nadu SPCBs have submitted action plans only for a part of Utilization of EC funds. Therefore, plans may be revisited;
- Odisha SPCB has submitted common action plan for O.A No. 681/2018 and 102/2019. Also availability of EC fund is not provided; and
- Action plans received from Bihar SPCB, Chhattisgarh ECB, Gujarat SPCB and Madhya Pradesh SPCB were approved by the Committee for execution:

xiii. Let CPCB issue a fresh direction with regard to the remediation of legacy waste sites in the light of deficiencies noticed by the CPCB and coordinate further action with the concerned Urban Development /Local Bodies/PCBs/PCCs/Municipal Corporations. At least one site may be remediated and made a model of compliance in each of the 122 NACs. Where ever legacy waste sites remediation has not commenced, it may commence earliest having regard to the fact that timeline under statutory rules to complete such action is 7.4.2021 and continued delay is detrimental to public health and environment. Information of compliance status as on 31.12.2020 be furnished to CPCB in terms of observations in para 24 above;

As per the order of Hon'ble NGT, CPCB has issued direction on dated 27.01.2021 to all SPCBs/PCCs on following:

1. SPCBs/PCCs to provide complete list of Legacy Waste dumpsites in their States/UTs as per format enclosed.
2. SPCB/PCCs to ensure that necessary action for bio-mining and bio-remediation of these dumpsites is done by the concerned Local Authorities in compliance with Provisions of SWM Rules, 2016
3. SPCBs/PCCs shall ensure that concerned Local Authorities engaged in the biomining process of legacy waste follow procedures as per CPCB Guidelines for Disposal of Legacy Waste with specific compliance to the following points:
 - i. Analysis of various screened fraction materials i.e. RDF, fine earth/bio earth etc., prior to its disposal/utilization
 - ii. Preparation of plan for utilization/ disposal of screened fractions
 - iii. Adequate provisions for leachate treatment.
 - iv. Maintenance of records / documents for disposal/utilization of the RDFs or fine earth and other materials.
4. SPCBs/PCCs shall ensure that the local bodies prepare time targeted Action Plan for bio-mining/ bio-remediation of these dumpsites in compliance with points listed above. The timelines as specified in SWM Rules, 2016 and Hon'ble NGT Directions on the matter are to be adhered to for remediation of these sites.
5. SPCBs/PCCs to ensure that no fresh waste is disposed at these dumpsites and local authorities make proper arrangement for management of fresh solid waste

6. SPCB to ensure that at least one legacy waste dumpsite is remediated in their jurisdiction which can be considered as model for compliance for other legacy waste dumpsites in Non-Attainment Cities (NAC).

Copy of the direction issued on 27.01.2021 is enclosed at ANNEXURE-IX and status of information provided by SPCBs/PCCs for the direction is enclosed at ANNEXURE-IX-A.

xiv. All the States/UTs and PCB/PCCs may take steps to coordinate with the State Disaster Management Authorities and Meteorological Departments. The observations of this Tribunal while dealing with the problem of frequent environmental disasters in order dated 23.07.2020 in OA 134/2020, News Item published on 13.07.2020 in daily "India Today" titled "Massive fire engulf Vizag chemical plant, explosions heard, injuries reported" may also be taken into account. Action taken reports be filed with the CPCB for submission of consolidated report to this Tribunal;

The Emergency Response System (ERS) – GRAP for Non-attainment cities is developed/part of action plan by 15 states (Jammu & Kashmir, Himachal Pradesh, Uttar Pradesh, Andhra Pradesh, Punjab, Chandigarh, Delhi, Bihar, Tamilnadu, Odisha, Nagaland, Gujarat, Maharashtra, Meghalaya and Telangana) and development is under process in 03 states (Uttarakhand, Rajasthan (for Alwar city ERS prepared) and Assam). GRAP is being prepared in Chhattisgarh.

For Madhya Pradesh GRAP is prepared for Indore, Bhopal, Gwalior & Jabalpur (GRAP development under process in Dewas, Sagar & Ujjain), for Jharkhand GRAP is prepared for Ranchi & Jamshedpur (no information is available for Dhanbad), for West Bengal GRAP is prepared for all cities except Kolkata, for Karnataka GRAP is prepared for Bengaluru (no information is available for Devanagere, Gulbarga and Hubli-Dharwad),

As informed by Karnataka SPCB, Proposal is being sent to Revenue Dept., Govt. of Karnataka to include MS, KSPCB as a member of Disaster Management Authority. The details are enclosed at ANNEXURE -VIII.

A communication is received from Govt. of Uttar Pradesh for issuance of the required guidelines in the matter through National Disaster Management Authority (NDMA). CPCB also communicated to NDMA for necessary actions in this regard.

The compliance status received from the various SPCBs/PCCs on steps to coordinate with the State Disaster Management Authorities and Meteorological Departments is enclosed at ANNEXURE-X.

xv. MoRTH may take further prompt action of undertaking carrying capacity studies with regard to road infrastructure, specially in 122 NACs, through Central Road Research Institute or any other agency which may be financed by CPCB out of compensation funds or otherwise. On that basis,

proper policies be prepared to deal with the number of vehicles beyond parking capacity or carrying capacity and permitting entry or registration of number of vehicles, parking areas etc. This is necessary to reduce congestion, unregulated parking and air pollution loads in 122 NACs. CPCB may coordinate with the concerned Ministries and acquaint this Tribunal with the outcome in its next report;

Communication was sent by CPCB vide letter dated 07.10.2020 and 24.11.2020 to MoRTH to take the matter on priority and provide the cost of the aforesaid study, for consideration of CPCB. Letter enclosed at ANNEXURE-XI.

Ministry of Road Transport & Highways in its Office Memorandum No. RT16025/2/2019-T dated 21.12.2020 (ANNEXURE-XII), stated that, "as per Government of India (Allocation of Business) Rules 1961, subject matter of the 'Planning and Coordination of Urban Transport systems is allocated to the Ministry of Housing and Urban Affairs (MoHUA). Further, MoHUA has already entrusted the task of formulating methodology for assessment of Carrying Capacity to M/s Urban Mass Transit Company Ltd (UMTC).

The scope of the study being undertaken by MoHUA already covers the carrying capacity studies with regard to road infrastructure, and may be extended to 122 NACs, in compliance of the Hon'ble NGT order dated 21.08.2020."

Further, CPCB vide letter dated 13.01.2021, requested to MoHUA to take the matter on priority and provide the requirement of the funds, if any on aforesaid study, for consideration of CPCB and compliance status on the Hon'ble NGT direction.

In reference to the MoRTH Office Memorandum No. RT-16025/2/2019-T dated 21.12.2020 (ANNEXURE-XII), MoHUA, issued an Office Memorandum vide O.M. No. K-14011/23/2018-UT-I dated 20.01.2021 (ANNEXURE-XIII), wherein MoHUA stated that "the stand/contention of MoRTH is not correct and is also not in line with the facts/developments of the case" and various views are provided. It is also stated that the directions of the Hon'ble NGT in the Order dated 21.08.2020 are categorical, case specific and with reference to MoRTH's functions and mandate for framing of policies regarding road infrastructure, framing of proper policies. Accordingly, the directions of the Hon'ble NGT in their order dated 21.08-2020 are for compliance and necessary action by MoRTH and they may consider filing compliance report/ appropriate submissions before the Hon'ble NGT.

xvi. The recommendations of the Oversight Committee for the State of UP, in its report dated 15.07.2020, need serious consideration and action by the concerned authorities in the State of UP. The Chief Secretary, UP may ensure further action in the State at different levels which may be coordinated and overseen by the Monitoring Committee. The oversight Committee may give its further independent report to this Tribunal before the next date by e-mail;

Information to be submitted by Uttar Pradesh separately.

xvii. In view of continued violation of law on significant environmental issues, to give effect to rule of law and Constitutional mandate of clean environment and for protection of public health and environment, monitoring must be done at the level of Chief Secretaries at least once in a month and the Chief Secretaries must have environment cells attached to their offices, as earlier directed by the Hon'ble Supreme Court and this Tribunal in OA 606/2018;

The environment cell is prepared by 11 states (Jammu & Kashmir, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Maharashtra, Punjab, Odisha, Tamilnadu, Nagaland, West Bengal and Uttar Pradesh) and status not available for 13 states (Andhra Pradesh, Chandigarh, Delhi, Gujarat, Jammu & Kashmir, Jharkhand, Karnataka, Meghalaya, Rajasthan, Telangana, Uttarakhand, Bihar and Assam). Details of development of environment cell are enclosed at ANNEXURE-XIV.”

27. Separate report on the subject of control of noise pollution gives the gap analysis as follows:

“3.0 GAP ANALYSIS

As per Hon'ble NGT Directions dated 15.03.2019 and 15.11.2019, action Plan submitted by States/UTs are analysed on the basis of following points:

- i. Noise level monitoring in conjunction with the Police Department and take remedial action.*
- ii. Police Departments of all the States/UTs may obtain the Noise monitoring devices within a period of three months.*
- iii. Police Department of all the States/UTs may also train their staff regarding the use of such devices.*
- iv. Police Department of all the States/UTs may develop a robust protocol for taking appropriate action against the defaulters.*
- v. Use of Sound Limiter(s) in all sound system/public address system for effective control of Noise Pollution.*

Accordingly, action plans submitted by 30 States/UTs were assessed based on its adequacy in addressing above-mentioned points. Detailed assessment of action plan is attached as Annexure-XLVI.

Following are the major observations based on the assessment:

- i. 10 States/UTs (Delhi, Tripura, Bihar, West Bengal, Karnataka, Kerala, Gujarat, Jammu and Kashmir, Sikkim, Uttar Pradesh) have addressed all the five action points as listed above in their action plans.
- ii. 20 States/UTs (Andhra Pradesh, Andaman & Nicobar, Arunachal Pradesh, Assam, Chhattisgarh, Chandigarh, Goa, Daman & Diu & Dadra and Nagar Haveli, Himachal Pradesh, Lakshadweep, Madhya Pradesh, Maharashtra, Meghalaya, Manipur, Mizoram, Odisha, Pondicherry, Tamil Nadu, Telangana, Uttarakhand) have partially addressed the above-listed action points in their action plans.
- iii. 05 States/UTs namely Haryana, Jharkhand, Nagaland, Punjab, Rajasthan have not submitted any action plan to CPCB.”

VI. Consideration of Report of the Oversight Committee for UP dated 27.03.2021 about compliance status in UP and recommendations for this order

28. We have also considered the report of the Oversight Committee for UP filed on 27.03.2021 in continuation of earlier report dated 12.02.2021, giving the compliance status with reference to directions of this Tribunal in the State of UP showing non-compliances on several issues, in a tabular form. **The Chief Secretary, UP may look into the report of the Oversight Committee and take further remedial action in terms of recommendations therein.**

Separate Report of CPCB re: road dust control and fire crackers

29. The separate CPCB report in pursuance of directions in OA 283/2020 is to the effect that 12 States have initiated some action and made provision **for sprinkling of water to suppress road dust and to procure mechanical road sweepers** while other States have yet to take action. Report in pursuance of directions in OA 249/2020 is that 23 States had prepared plans **to regulate bursting of fire crackers while other States had yet to take action.**

VII. Current (Fifth) and final review on the subject – Analysis of the CPCB report dated 05.04.2021 for this order

30. The report shows progress under 17 specific heads. With regard to installing 175 monitoring stations, it is stated that 20 new CAAQMs have been installed and 25 approved. SA and CC studies are underway. There is partial progress on shifting polluting activities out of non-conforming areas. PGRPs have been developed by several States and other States have yet to do the same. **Two more cities have been added to the list of NACs** and actions plans for the NACs have been mostly prepared. Status of execution of action plans is not very clear. Micro level planning has been done for some cities. Gaps in plans and execution remain to be addressed. The issue of revising NCAP and CAMPA Funds is still to be addressed. Certain steps have also been taken for control of noise pollution, including procurement of noise monitoring devices and limiters. Emergency response systems have been partly developed. Directions issued for utilizing 'Consent' and 'EC' funds and for bioremediation of legacy waste dump sites. Carrying capacity of road infrastructure to determine parking capacity is being dealt with by the Ministry of Road Transport and Highways and Urban Development Departments. Environment Cells have been set up by some of the Chief Secretaries. **The report does not indicate the reduction in pollution level in any of the NACs as a result of steps so far taken. Similarly, with regard to noise pollution control, no tangible progress has been shown.** Progress on SA and CC studies is highly inadequate. Preventive and remedial measures for stubble burning need to be planned in advance for effective control of pollution. CPCB needs to undertake finger printing and marker/bio-marker pollutant analysis and identify sensitive plant species which will indicate quality of air as well as deleterious effect, if any, along with SA studies. While the

report has stated under heading (ix) that a separate report will be filed on the subjects of modification of NCAP, utilization of CAMPA Funds by undertaking special afforestation drive, no such separate report has been filed.

31. We consider it necessary to comment on some of the subjects needing pointed attention.

Inadequacy of Monitoring Stations

32. To capture the real picture which is essential for further planning and remedial action, sufficient number of monitoring stations have to be established and there has to be atleast one monitoring station in every district, as earlier directed. In this regard, we may refer to earlier order dated 21.08.2020 on consideration of the issue with reference to the data from CPCB report dated 18.08.2020. The Tribunal noted that the said report mentioned that air quality was being monitored manually at 793 locations covering 344 cities/towns in 28 States and 7 Union Territories (UTs) across the country under National Air Quality Monitoring Programme (NAMP) and through real time stations in 219 stations covering 123 cities in 18 States and 2 UTs under Continuous Ambient Air Quality Monitoring. Further, the SPCBs/PCCs are also monitoring ambient air quality manually at 126 locations covering 86 cities/ towns in 13 States under State Air Quality Monitoring Programme (SAQMP). **It was observed that there are 740 Districts in the country and above 4000 cities. It is absolutely necessary that atleast at every District Headquarter in all the 740 Districts, there should be an air quality monitoring station. It was directed that wherever such stations have not yet been set up so far (though Air Act is 39 years old), manual stations, which are very easy to set up and are not costly, must be installed at the**

earliest using simpler procedure like GeM. This step should not exceed three months. This will be the responsibility of the State PCBs/PCCs, using funds available under 'consent mechanism'/ 'environmental compensation'.

As per data furnished by the CPCB in its report dated 14.11.2019, it was mentioned that **as against requirement of CAAQMS being 800, only 176 had been installed and as against required manual stations being 1250, only 658 had been installed. The gap was directed to be filled up by the Tribunal till 20.11.2020 which was extended vide order dated 21.08.2020 for six months, which expired on 21.02.2021.**

CC and SA Studies

33. **The progress on the subject is inadequate, though important as in its absence of such studies, further planning and action may be difficult. Hazardous/polluting activities will remain unchecked without proper planning.**

Shifting of polluting activities

34. As already mentioned, in absence of CC and SA studies and master plans, shifting, prohibiting and regulating unsustainable polluting activities remain a challenge.

Effective functioning of PGRPs

35. As per report, 17 States have yet to provide information while effectiveness of functioning of PGRPs has not yet been duly evaluated.

Action Plans for NACs

36. While action plans have been prepared for almost all the NACs and are available on the websites of CPCB as well as State PCBs, timelines in

the action plans are not in consonance with the orders of this Tribunal. For enforcement of rule of law, accountability is required to fixed for every violation of standards of air quality by identifying the violators and taking action in terms of prohibiting polluting activities as well as recovering compensation for the period during which violation continued. If such plan is not prepared to make every violator accountable, there will be failure of the public trust doctrine under which the State Authorities are required to enforce the enacted law. There has to be commitment to the upholding of the air quality standards laid down and taking action for every violation. We are of view that such coercive action for failure against authorities must start atleast from 01.11.2021. Any delay in execution of action plan beyond 01.11.2021 will render the concerned States liable to pay compensation atleast @ Rs. 10 lakhs per month with liberty to recover the amount from the erring officers. Such compensation must be credited to a separate account to be operated by the Chief Secretary of the State and the amount so deposited will be spent for restoration of the environment.

Noise control

37. There are huge gaps in execution of action plans for noise control, including procurement of equipments. Such gaps need to be addressed especially by Police and environment Departments who are entrusted with the responsibility of control of noise under the Noise Pollution (Regulation and Control) Rules, 2000. Atleast from 01.11.2021, the concerned States/heads of police force must be held liable to pay compensation @ Rs. 10 lakhs per month on the same pattern as failure to enforce action plans for control of air pollution.

Afforestation drive utilizing CAMPA Funds

38. Afforestation drive is essential for control of air pollution. Coordination with the CAMPA authorities is required for utilizing the CAMPA funds for the purpose of afforestation, as already directed.

Revamping of State PCBs/PCCs utilizing 'Consent'/'EC' funds

39. According to CPCB report, certain steps have been taken but further steps need to be taken. There is dire need to revamp regulatory authorities by recruiting adequate number of personnel, atleast equal to already sanctioned posts and then reviewing the strength and also by procuring requisite equipments and establishing sufficient labs, using available consent funds.

Issue of Carrying Capacity of the roads through Central Road Research Institute by MoRTH

40. The issue remains unresolved though it is very much necessary for the purpose of planning no vehicle zones, parking capacity and other regulatory measures, including number and nature of vehicles to be allowed in NACs and other air polluted areas.

Monitoring at the level of Chief Secretaries through environment cells

41. The report shows that only 11 States have so far given information. Further action needs to be taken expeditiously.

DATA GRID Needed

42. The data grid for continuous information will go a long way in dealing with the problem. As already noted in Para 20 above, there is need for National, State, District Environmental Data Grids giving the data of air quality. Apart from improving environment, this is necessary to enforce right of the citizens to information about air quality in different areas.

Based on the level of pollution, categories of cities/districts need to be appropriately classified such as 'red', 'orange' and 'green'. Further, based on such data National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs and updated from time to time.

Other inadequacies in addressing challenges : SA and CC studies and further steps for control of Vehicle pollution, vehicle density, industrial pollution, coal-fired industrial activities, Unscientific mining, unplanned development, garbage Dumps, combustions - burning of garbage, crop burning, handling of other waste - plastic, bio-medical waste, dust, environmental disasters

Legacy Waste Sites remediation and other waste management, including biomedical and plastic wastes and burning of crop residue

43. The said work continues to be neglected posing serious threat to the air quality. As per directions already issued on 28.02.2020 in OA 606/2018, compensation may be recovered and utilized for restoration of the environment. The said direction is reproduced below for ready reference:

“1to40...xxx.....xxx.....xxx

41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh **which have also been repeated for other States in matters already dealt with, we direct:**

- a. In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). **Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body with population with 5 lakhs from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty**

to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs /PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.

- b. Legacy waste remediation was to ‘commence’ from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28²² even though statutory timeline for ‘completing’ the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today, continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.**
- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially**

²² The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.

- d. *The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:*
 - i. *Interim measures for phytoremediation/bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
 - ii. *Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
 - iii. *Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.*
- e. *Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries of the States/UTs.*
- f. *An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*

g. Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB.”

44. Vide order dated 14.12.2020 in O.A. No. 606/2018, *Compliance of Municipal Solid Waste Management Rules, 2016 and other environmental issues*, further direction issued is as follows:-

“1to8...xxx.....xxx.....xxx

9. The compensation in terms of earlier order be recovered and credited to a separate account with the Environment Department of the States/UTs to be used for restoration of environment in the concerned States/UTs. The deposit, instead of being made with the CPCB, may now be made to the said account.”

45. **There are 4000 legacy waste dump sites (including in all NACs) in the country as per CPCB report noted in order dated 18.10.2019 in OA 606/2018.** Emissions therefrom and burning of garbage cause air pollution. The said accumulated/legacy waste needs to be tackled on war footing, as earlier directed by this Tribunal in OA No. 606/2018, in the presence of Chief Secretaries of all the States/UTs. **Progress on the subject is disappointing. Unplanned hazardous activities in residential areas are further matter of concern. There are no adequate safeguards against control of fugitive dust. Coal fired industrial activities are a great hazard. Density of vehicles, unclean fuel and lack of planning to regulate traffic need focused attention. No satisfactory solution is in place to control burning of crop residue. Environmental disasters remain unchecked.**

46. **Dumping and burning of bio-medical waste and plastic waste in violation of law significantly add to air pollution which need to be scientifically handled, as held by this Tribunal vide orders dated**

18.01.2021 in OA No. 710/2017, *Shailesh Singh v. Sheela Hospital & Trauma Centre, Shahjahanpur & Ors.* and 08.01.2021 in EA No. 13/2019 in OA 247/2017, *Central Pollution Control Board v. State of Andaman & Nicobar & Ors.* respectively.

Measurement of Success – graph must show reduction of pollution load but infact pollution level increasing – Serious Monitoring and fixing accountability imperative:

47. Final success of execution of action plans depends on graph of reduced pollution load. This requires monitoring at highest levels in Districts, States and at the national level by coordination of all concerned departments. There is constitutional obligation of good governance and a duty to citizens to enforce their right of breathing fresh air. Absence of adequate remedial action is resulting in deaths and diseases which are like pandemic or like causing of homicide or grievous hurts with no accountability. Main sources of air pollution have been identified and remedial measures also articulated.

Some other recent NGT orders relevant in the context: Shifting coal fired industrial activities to PNG

48. As a result of regional carrying capacity evaluated by an Expert Committee under orders of this Tribunal in OA No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.*, it was found that **brick kilns in NCR were working beyond the carrying capacity**. This led to direction for control and regulation of such activities and also switching to cleaner fuel. **Similar directions were issued for air pollution in Morbi industrial area in Gujarat²³ and Mandi Gobindgarh Industrial area in Punjab²⁴ by shifting fuel for industrial activities from coal to PNG.**

²³ Order dated 6.3.2019 OA 20/17(WZ) Babubhai v GPCB

²⁴ Order dated 06.04.2021 in OA No. 924/2019, Neeraj Goyal v. State of Punjab

49. Once studies are carried out about sources of pollution beyond assimilative capacity of air, it will be possible to control and regulate polluting activities in the interest of public health and to give effect to the Sustainable Development principle.

Dust Control

50. In view of directions already given in OA 283/2020²⁵, there is need for control of fugitive dust emissions during the road cleaning by appropriately sprinkling of water and greening of the open soiled areas. Utilization of CAMPA funds for afforestation needs to be explored in coordination with the CAMPA authorities, as already directed.

Public Awareness and stringent measure against sources of pollution and revamping monitoring mechanism having sufficient qualified personnel, periodical training and procuring equipments – imperative for public health – constant planning and monitoring at all levels

51. Further attention is required to creating awareness about harmful polluting activities like fire crackers. It is well known that harmful hazy conditions of pollutants being locked in the air during October – November in North India may need sustained planning and action. Prior awareness of the public in this regard is imperative. There is also need for involvement of eminent citizens and experts. An Advisory Committee is required for each of the NAC and other air polluted areas where air quality is poor and above so that such Committees may interact with the resident welfare associations and other stake holders in the light of public grievances/suggestions, plan initiatives and special drives from time to time having regard to the local conditions. They can also coordinate with schools and colleges and research institutions.

²⁵ Order dated 03.12.2020, S.R. Virk v. Central Pollution Control Board

52. As already mentioned, pollution free environment is part of right to life. Air pollution beyond norms seriously affects health and environment. In spite of statutory mechanism and orders of the Hon'ble Supreme Court and other Courts/Tribunal, the challenge of pollution from different sources, including vehicular pollution, industrial and construction sector pollution, power sector pollution, agriculture sector pollution remains. Graded Action Response Plan (GRAP) has been issued for National Capital Region (NCR) in pursuance of directions of the Hon'ble Supreme Court stipulating steps to be taken for controlling/regulating several polluting activities depending upon the level of pollution.

53. In *Arjun Gopal & Ors. v. UOI & Ors.*²⁶, it was observed that the residents of NCR faced severe air quality standards which were worst in the World. It had serious adverse health impact. Life of citizens in NCR had been brought to virtual standstill. The Capital was smoked into an environmental emergency of unseen proportions. It will be appropriate to extract some observations from the judgment:-

*“4. The onset of winter and the festival/marriage season this year, presented to the residents of NCR severe concerns regarding the air quality standards. According to reports, the air quality standards in early November of this year were the worst in the world. **It is reported that the PM_{2.5} levels recorded were “beyond scale” values (see India's Air Quality Among World's Worst Over Diwali Weekend: Report. 4-11-2016, Hindustan Times).** The report indicates that 24-hour average of PM_{2.5} levels in South Delhi in 2016 were 38% higher than on the Diwali night of 2015. The day after Diwali, these levels were twice as high as the day after Diwali in 2015, crossing 650 µg/m³, which is 26 times above the WHO's standards or levels considered safe. Shockingly, on the morning of 1-11-2016, Delhi woke up to an average PM_{2.5} level of over 700 µg/m³ — some of the highest levels recorded the world over and 29 times above WHO standards. The report further states that the WHO guideline for 24-hour average PM_{2.5} levels is 25 µg/m³ and with an annual average PM_{2.5} level of 122 µg/m³, Delhi's air is the worst among global megacities with dense populations. We have*

²⁶ (2017) 1 SCC 412

particularly referred to the PM 2.5 levels because of the extreme effects and near invisibility of this type of particulate matter. PM_{2.5} or particulate matter 2.5 (PM_{2.5}), refers to tiny particles or droplets in the air that are two-and-one-half microns or less in width. It may be noted that the widths of the larger particles in the PM_{2.5} size range would be about thirty times smaller than that of a human hair. These particles primarily emanate from vehicle exhausts and other operations that involve the burning of fuels such as wood, heating oil or coal, and of course, use of fire crackers.

5. In India, air quality standards are measured in terms of the Air Quality Index (hereinafter “AQI”). The AQI was launched in India on 17-10-2014 by the Ministry of Environment and Forests. According to the press release of the Press information Bureau of the same date, it consists of a comprehensive set of parameters to monitor and asses the air quality. The AQI considers eight pollutants (PM₁₀, PM_{2.5}, NO₂, SO₂, CO, O₃, NH₃, and Pb), and based on the levels of these pollutants six categories of AQI ranging from “Good” to “Severe” have been prescribed. The index also suggests the health effects of the pollution categorywise. The gradation of AQI and its health impact is extracted below:

Tables 1 and 2 have already been reproduced above and are not being repeated.

xxx.....xxx xxx
xxx.....xxx xxx

6. Reports indicate that AQI in Delhi was much above the severe standard, shooting off the AQI 500 mark on many days this November. On the day after Diwali, it was more than 14 times the safe limits (see Delhi's Pollution Levels Peaks at 14-16 Times Safe Limits, 31-10-2016, The Hindu). The adverse health effects of these hazardous levels of pollution are only too evident from the table given above. We do not intend to refer to the multiplicity of reports and data on this front.

7. The hazardous levels of air pollution in the last few weeks have spared very few from its ill effects. The life of the citizens of NCR was brought to a virtual standstill, not to speak about the plight of the thousands of mute flora and fauna in NCR. Schools were declared shut, denizens of the city advised to stay indoors, construction activities stopped, power stations shut and ban imposed on burning of garbage and agricultural waste. The fall in air quality has had a significant impact on people's lifestyle as well. The rising costs to protect against air pollution are substantial. It has come to our notice that people are queuing up to purchase protective masks and air purification systems in the wake of dense smog all over the NCR. In short, the capital was “smogged” into an environmental emergency of unseen proportions.

8. The adverse effects of these extreme levels of air pollution spare no one — the young, the old, the infirm and

even the future generations. A study of the data of the Global Health Depository of the World Health Organisation reveals that India has the world's highest death rate from chronic respiratory diseases and that about 1.5 million people in India die annually due to indoor and outdoor pollution (see Delhi Wakes up to an Air Pollution Problem it cannot Ignore, 15-2-2015, The New York Times). The Kolkata-based Chittaranjan National Cancer Institute (CNCI), in a study commissioned and handed over to the Central Pollution Control Board, found that key indicators of respiratory health, lung function to palpitation, vision to blood pressure, of children in Delhi, between four and 17 years of age, were worse off than their counterparts elsewhere. It also found that more than 40% of the school children suffer from lung damage (see Landmark Study Lies Buried, 2-4-2015, The Indian Express). We note with apprehension that there are nascent studies that suggest that pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases like multiple sclerosis (see Holding Your Breath in India, 29-5-2015, The New York Times).

9. It has been brought to our notice that the severe air pollution in the NCR is leading to multiple diseases and other health related issues amongst the people. It is said that the increase in respiratory diseases like asthma, lung cancer, bronchitis, etc. is primarily attributable to the worsening air quality in the NCR. The damage being caused to people's lungs is said to be irreversible. Other health related issues like allergies, temporary deafness are also on the rise. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc.

*10. When we refer to these extreme effects, we are not merely referring to the inconvenience caused to people, but to abject deprivation of a range of constitutionally embedded rights that the residents of NCR ought to have enjoyed. Needless to state, the grim situation of air quality adversely affected the right to education, work, health and ultimately, the right to life of the citizens, and this Court is constitutionally bound to address their grave concerns. May we remind ourselves, that this is not the first time that this Court was impelled into ensuring clean air for the citizens of the capital region (see *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 6 SCC 60] · [*M.C. Mehta v. Union of India*, (1998) 9 SCC 589] , *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 8 SCC 648] and *M.C. Mehta v. Union of India* [*M.C. Mehta v. Union of India*, (1998) 8 SCC 206]).”*

54. We have already noticed directions of CPCB under section 18 of the Air Act dated 29.12.2015 for setting up of monitoring stations and orders

of the Hon'ble Supreme Court for control of vehicular, industrial, construction, power sector and agricultural pollution, CAP prepared by EPCA for NCR and GRAP notified by MoEF&CC for NCR for measures in response to higher pollution levels, including closing of specified polluting activities and also restrictions in eco sensitive zones and need for comprehensive measures for NACs, which are a class of polluted areas requiring targeted measures on the pattern of NCR and ESZs.

Enforcement of air quality standards in areas other than 124 NACs

55. As already mentioned, the criteria for determining NACs is consecutive non-compliance for five years for any of the 12 parameters. Apart from a city or area being non-compliant of any of the parameters for five consecutive years and qualifying as NACs, there are cities or areas which are non-compliant with the air quality standards but not for consecutive five years. Such cities also need remedial action at par with NACs. Further, where-ever air quality is poor or above, in view of adverse health impact of air pollution, remedial action is required in the interest of public health.

VIII. Consideration of way forward and Directions:

56. As shown from the resume of orders dated 8.10.2018, 15.03.2019, 06.08.2019, 20.11.2019 and 21.8.2020 in the present matter and other orders in related matters and above discussion, specific action points stand identified. There are action plans prepared by six member Air Quality Monitoring Committees (AQMCs) in States/UTs, overseen by the Chief Secretaries and approved by Expert Committee comprising Member Secretary CPCB, Prof Mukesh Khare, IIT Delhi and Prof. Mukesh Sharma, IIT Kanpur. The subject was also discussed with the Chief Secretaries of all the States/UTs during their appearance before the Tribunal in

pursuance of order dated 16.1.2019. On further review, 15 specific directions were issued on 6.8.2019 including setting up of online Continuous Ambient Air Quality Monitoring Stations (CAAQMS), undertaking Source Apportionment (SA) and Carrying Capacity (CC) studies, reviewing of master plans consistent with such studies, closing/shifting industrial units from residential/non-conforming areas consistent with the directions of the Hon'ble Supreme Court, developing public grievance redressal portals and incorporating compensation regime against the violators. The Tribunal also took cognizance of the noise pollution which is also covered under the Air (Prevention and Control of Pollution) Act, 1981 and 2000 Rules under the EP Act. Further issues considered include revamping of CPCB and State PCBs for effective monitoring. Progress was reviewed on 20.11.2019 and further 16 specific directions were issued, including compensation for defaults. Further issue of regulating parking in the light of capacity of the road infrastructure was dealt with vide order dated 26.2.2020, as already mentioned earlier. Finally, on 21.8.2020 comprehensive review was undertaken and 18 specific directions were issued. **The compliance status does not show significant achievements and there continue to be huge gaps in what is required to be done and what has been done.**

57. **That 124 major cities in the country are continuously non-compliant with the prescribed standards of air quality for more than five years is a matter of serious national concern which needs to be addressed urgently at all levels by involvement of highest authorities. Challenge is equally serious for areas where pollution levels are as high as above poor even though outside 125 NACs. Challenge of control of noise pollution also confronts the citizens. Thus, the**

concerned authorities have to perform their responsibility, including public awareness and involvement.

58. In the light of above detailed discussion, holistic and coordinated efforts at all levels in the government is dire need of the hour. Accountability in terms of adverse entries in the ACRs and recovery of compensation for non-compliance are imperative for fixing accountability. This requires authorities at higher level to function as trustees for discharge of constitutional and statutory obligation to the citizens. There is no other magic wand to protect people against acknowledged sorry state of affairs. As shown from the observations of Hon'ble Supreme Court quoted in para 53 above, India has world's highest death rate from chronic respiratory diseases. About 1.5 million people in India die annually due to air pollution. The Hon'ble Supreme Court also observed that 40% school children suffer from lung damage. Air pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases. Severe air pollution is leading to diseases and irreversible damage to health. There are other health related issues like allergies, temporary deafness. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc. This is resulting in deprivation of constitutionally embedded rights. Grim situation is affecting right to education, work, health and ultimately, the right to life of the citizens. There are further reports²⁷ that air pollution is

²⁷(i) Air pollution killed 1.7 million Indians in 2019: Lancet report: (<https://www.downtoearth.org.in/news/air/amp/air-pollution-killed-1-7-million-indians-in-2019-lancet-report->

resulting in fatalities and economic losses. Remedial action is thus utmost for protecting health of the citizens.

Need for a High-level National Task Force for Monitoring

59. The matter has been monitored by the Tribunal for about two and a half years. Primarily **the Tribunal is an adjudicatory body and beyond giving directions necessary for protection of environment under section 15 of the NGT Act, execution has to be by administrative authorities.** Under public trust doctrine, the State authorities are under obligation to take effective measures to control pollution. Tribunal monitoring cannot be for indefinite period. Road map has crystalised to an extent. The Tribunal has formulated direction and conducted review five times with the assistance of data available with it. The ownership of monitoring must be now taken over by the statutory and administrative authorities for enforcement of rule of law for which a national level task force needs to be constituted. **Thus, we find it necessary to give effect to the principle of Sustainable Development, in the interest of protection of environment and public health, to direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and CPCB with a view to monitor remedial**

[74737#aoh=16178975512221&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s\)](https://www.firstpost.com/tech/science/air-pollution-related-disease-deaths-cost-india-rs-260000-crores-in-economic-loss-report-9159281.html)

(ii) AIR POLLUTION RELATED DISEASE, DEATHS COST INDIA RS 260,000 CRORES IN ECONOMIC LOSS: REPORT (<https://www.firstpost.com/tech/science/air-pollution-related-disease-deaths-cost-india-rs-260000-crores-in-economic-loss-report-9159281.html>)

(iii) 1.7 million deaths in India were attributable to air pollution in 2019, says study: (<https://www.thehindu.com/news/national/17-million-deaths-in-india-were-attributable-to-air-pollution-in-2019-says-study/article33394600.ece>)

(iv) Air pollution in India caused 1.67 million deaths in 2019: (<https://www.news-medical.net/news/20201223/Air-pollution-in-India-caused-167-million-deaths-in-2019.aspx>)

(v) Air pollution caused 54,000 deaths, \$8.1 billion loss in Delhi in 2020 : (<https://www.businesstoday.in/current/economy-politics/air-pollution-claimed-54000-lives-in-delhi-last-year-one-death-per-500-people-claims-greenpeace-study/story/431766.html>)

steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels. Needless to say that the Chief Secretaries must continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs so as to effectively provide positive feedback to the NTF. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers.

Directions

60. Our directions are summed up as follows:

- i. **We direct constitution of an eight-member National Task Force (NTF) to be headed and coordinated by the Secretary MoEF&CC with nominees (not below the rank of Joint Secretaries) of Ministries from Housing and Urban Development, Road Transport, Petroleum, Power, Agriculture, Health and Chairman, CPCB with a view to**

monitor remedial steps to improve the status of air quality in NACs consistent with the action plans already prepared and approved by the Expert Committee and directions of this Tribunal, referred to above, including the last order dated 21.08.2020 and also to monitor compliance of noise control norms. NTF may also monitor enforcement of laid down air quality standards beyond NACs in other identified air polluted areas where air quality is poor and above.

- ii. **The NTF may hold its first meeting within one month and thereafter evolve mechanism for monitoring by quarterly meetings with Chief Secretaries of concerned States/UTs. The NTF may coordinate and work in tandem with the Committees already constituted under NCAP at National and State levels.**
- iii. Monitoring by NTF may be with reference to the action plans of 124 NACs. The components include installation of monitoring stations, completion of CC and SA studies, shifting, prohibiting and regulating activities beyond carrying capacity (such as shifting to cleaner fuel and declaring regulated/no vehicle zones so as to ensure that the air quality does not go beyond 'poor' for protection of health of the citizens), effectiveness of PGRPs, timelines for execution of the action plans and recovery of compensation for delay, addressing gap in control of noise pollution, afforestation drives utilizing CAMPA funds, effective implementation of ERS, revamping of PCBs/PCCs and other monitoring mechanism, remediation of legacy waste sites and effective steps for management of other waste, including biomedical, plastic and e-waste, dust control, public awareness

and community involvement programmes and setting up of data grids on all levels. NTF may also evolve and oversee parameters for interse ranking of success of remedial action for 124 NACs and other air polluted areas where air quality is poor and above. Further, accountability for failures and incentives for success also needs to be monitored. NTF is free to take up any other incidental issues.

- iv. Consistent with Digital India initiatives, MoEF&CC/ CPCB may consider setting up and periodically updating National Environment Data Grid (NEDG) linked to the State Environment Data Grids (SEDGs) and District Environment Data Grids (DEDGs) and further linked to available portals like online air quality, Sameer and other monitoring stations to facilitate analysis, research and planning on the subject. It may be further interlinked to National Air Quality Monitoring Programme (NAMP). Based on above data, the MoEF&CC may lay down guidelines for classifying cities/districts in terms of air quality in different categories such as 'red', 'orange' and 'green'. On that basis, a National Air Quality Atlas may be compiled and published on the websites of MoEF&CC, CPCB and State PCBs/PCCs annually.
- v. **The Chief Secretaries of all States/UTs may continue to monitor progress in execution of action plans at State level with the assistance of monitoring cells in their offices and the AQMCs. The State level monitoring must include action at the ground as per directions to be implemented by the District Magistrates or other concerned departments. The monitoring may include all associated issues, including**

road dust control by appropriate sprinkling of water (utilizing treated water, instead of potable water), planting herbs and shrubs, and all sources of pollution, including fire crackers. The issue of noise pollution also needs to be addressed, as earlier directed.

The application is disposed of.

A copy of this order be forwarded to the Secretaries, MoEF&CC, Ministries of Urban Development Department, Road Transport and Highways, Petroleum, Power, Agriculture, Health, CPCB, the Chief Secretaries, PCBs/PCCs and District Magistrates of all the States/UTs by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

April 8, 2021
Original Application No. 681/2018
A

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Vardhman Kaushik,
and Mr. Naresh Kaushik.
Respondent No. 1: Ms. P.B. Singh, Advocate and Mr.R.N. Jindal,
Addl. Director, MoEF & CC
Mr. Ardhendo Mauli Kumar Prasad with Mr. B.V.
Niren, Adv. for Ministry of Road Transport and
MoUD & PNG
Mr. Sanjeev Ralli, Adv. for DPCC

	Date and Remarks	Orders of the Tribunal
	Item No. 2 November 28, 2014	This matter has been listed for directions. We have heard the Learned counsel appearing for Parties further. It needs to be noticed that the Hon'ble Supreme Court of India for the first time in the case of M.C. Mehta Vs. Union of India (1998) 5 SCC 206 had passed certain directions imposing restriction on plying of commercial vehicles including taxis which are more than 15 years old as of 02nd October, 1998. This Order was further modified. The Bhure Lal Committee had submitted its report to the Hon'ble Supreme Court which was noticed by the Court in its Order dated 16th April, 1999. In that report it was noticed that more than 90% of the Nitrogen Dioxide and respirable particulate matter is due to diesel. It was observed that the steps should be taken for improvement of quality of diesel that was supplied in the vehicles. It is evident that there are various sources of air pollution.

	Vehicular pollution and burning of materials particularly plastic and allied products that are burnt in open area is one of the major sources of air pollution. Auto Fuel Policy, 2003 have intended to achieve the required targets for prevention and control of pollution. Another serious source of pollution amongst the vehicular pollution is the 3 wheelers particularly that are running on diesel. A Committee has been constituted in order to achieve the vision of Auto Vision and Policy 2025. The Hon'ble Supreme Court had further directed on 29th April, 1999 that non-commercial vehicles should also conform to Euro – II norms and only then they should be registered in NCR of Delhi. This was expected to complied with by the year 2000. The Hon'ble Supreme Court again vide its order dated 18th September, 2009 in the case Bharat Petroleum Corporation Ltd Vs. Sunil Bansal had passed directions to the concerned Authorities to take various steps in relation to the prevention and control of air pollution. Despite the above orders of the highest court of the land there is hardly any improvement in the ambient air quality of NCT of Delhi. In fact it has already been noticed in our previous order that it has gone from bad to worse . The present state of affairs cannot be permitted to persist any longer. The Applicant before us has argued at some length that if this serious environmental issue is not resolved at the earliest, inevitable results may couse serious danger to human health in NCT of Delhi. We have already referred to the study which has been conducted by the

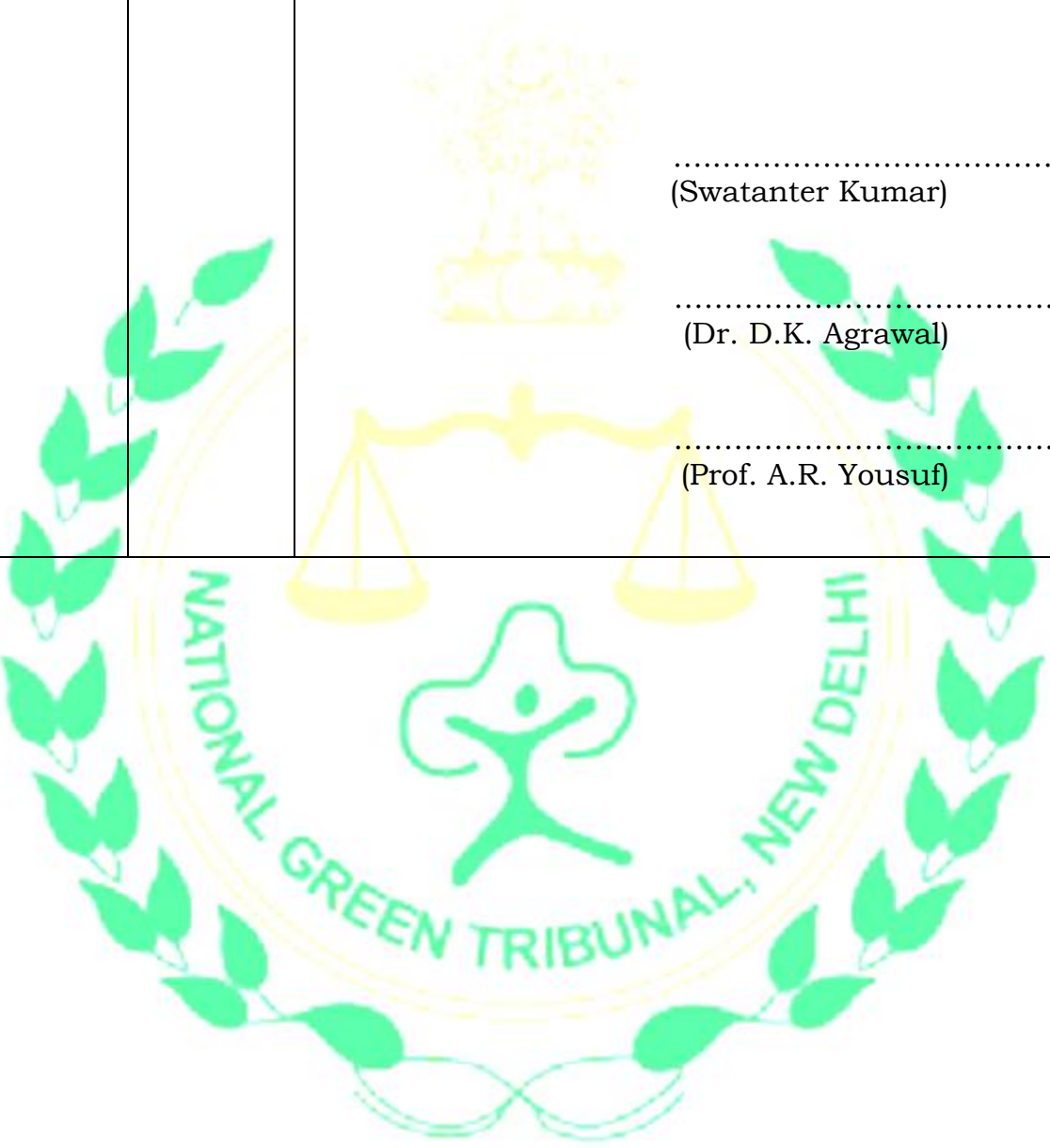
	different bodies and was widely reported. It mentions that even the morning walkers intake air that is highly polluted, air is dangerous to human health and is worst in the morning and evening hours. Despite the fact that Expert Members are on the Bench of the Tribunal hearing the matters, at the request of the parties and in the interest justice, we would prefer to adopt the approach which is more consultative and provide a leverage for deliberations with the stake holders and the Authorities which are responsible for implementation of the directions of the Tribunal and the law in force. The limitations or any other difficulties that an implementing agency or State or Central Government may have, in our opinion, should be directed to bring it to the notice of the Tribunal for ensuing passing of directions which can be effectively, expeditiously be implemented for protection of the environment and public health. The Tribunal would certainly, within the framework of the National Green Tribunal Act, 2010, take a consultative and deliberated approach with the stakeholders to resolve an issue of such wide magnitude and/or of greatest public welfare and is seriously effecting the environment. In furtherance to this, we direct holding of a meeting on Tuesday i.e. 02nd December, 2014 at 1.00 P.M. in the conference hall of the NGT where the following would be present:- 1. All the learned counsel appearing before us; 2. Addl. Secretary, MoEF; 3. Addl. Secretary, Ministry of Petroleum as deputed by the Secretary of the Ministry;

		4. Chairman, CPCB 5. Secretaries of NCT Delhi directly concerned with the implementation of the order of the Tribunal dated 26th November, 2014 preferably Secretary of Environment, Secretary of Transport, Secretary of Health and Secretary of Finance; 6. The Commissioner of Police, Delhi; 7. Addl. Commissioner of Police in charge of Traffic, Delhi; 8. RTO; 9. Addl. Secretary of Ministry of Urban Development, Govt. of India; 10. Addl. Secretary of Ministry of Road and Surface Transport, Govt. of India ; 11. Commissioners of all the Corporations of Delhi including CEO of NOIDA and HUDA; 12. Chairman of Planning Board; 13. MD of DTC. In the meanwhile, we would require the Authorities to submit their views to the Tribunal on the one hand and implement the directions contained in our Order dated 26th November, 2014 as well as the directions contained hereinafter without default and delay, on the other hand. The matters which fall in this ambit and would be subject of deliberation in the Chamber meeting <i>inter alia</i> but primarily on the following issues:- a) Implementation of our order dated 26th November, 2014; b) Methodology to be adopted for introducing pool car and providing of incentives in that behalf;

		c) Complete lay out plan for obstruction- free flow of vehicular traffic in the NCT Delhi; d) Dimensions to which the public transportation system needs to be upgraded, increased and to ensure that there are pollution free systems. e) No bus or vehicle owned and under control of DTC or any bus operating under contract with DTC which is more than 15 years old as on 01st December, 2014 would ply and/or permitted to be plied on any part of NCT Delhi. This order will equally apply to the buses owned and/or under contract with State of Haryana, State of Uttar Pradesh, State of Rajasthan, State of Punjab, and all other States whose buses are coming to Delhi from the destination of their respective States. MD of DTC and other Officers incharge of the buses in the respective States shall ensure and personally be liable for implementation of these directions. f) Air filter should be installed in terms of our order dated 26th November, 2016 particularly in the markets places which are highly crowded in terms of human beings and vehicles and places, gardens where the residents of NCT of Delhi go for morning or evening walk, as the case may be; g) Installation of in-line weigh bridges and their proper functioning which we have directed vide our earlier order shall be adhered strictly. Further, we direct weigh bridges shall be computerised and such system should be directed to be installed through the concerned Agencies and Departments immediately;

		h) The CPCB, DPCC, Secretary Environment, NCT Delhi, including Secretary of Transport, Uttar Pradesh and Haryana shall ensure that agencies which have been engaged for the purposes of checking emissions from vehicles, act strictly in accordance with law and do not issue any certificate casually; i) The Authorities shall inform the Tribunal in the meeting as to what steps can be taken and/or what penalties can be imposed against the agency issuing PUC (Pollution Under Control) Certificate, if they are found to be erring or issuing certificates to non-conforming vehicles. In the meanwhile, all concerned agencies shall inspect the agencies authorised to issue PUC and provide status report to the Tribunal and any PUC agency operating illegally and unauthorisedly shall be closed forthwith. List this case for meeting in the conference hall of NGT on Tuesday, 02nd December, at 1.00 PM. The case shall come for hearing before the Tribunal on 12th January, 2014. The date already fixed for 09th January, 2014 shall stand cancelled. Let copy of this Order be placed immediately by the Registry on the website. Learned counsel appearing for the parties would inform their respective clients and to all other Departments who have been directed to be present in terms of this order.

		The records of Original Application No. 01 of 2012, Sanjay Agnihotri Vs. Union India & Ors. may also be called for hearing for that date. Learned counsel appearing for appearing NOIDA and greater NOIDA Authority accept Notice. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnendra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

		of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



Item No. 02

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 117/2017 (WZ)

Dileep B. Nevatia

Applicant(s)

Versus

The Motor Vehicle Department & Ors.

Respondent(s)

Date of hearing: 25.06.2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Applicant(s) : Mr. Dileep B. Nevatia, Advocate

For Respondent(s): Mr. Vilas A Jadhav, Advocate for R-2, MPCB

ORDER

1. The applicant has filed this application against the violation of The Air (Prevention and Control of Pollution) Act, 1981 and The Environment (Protection) Act, 1986, caused due to complete neglect and apathy on part of the Respondents in failing to comply with strict compliance of Rule (115) sub-rule (7) of the Central Motor Vehicles Rules, 1989 and thereby failing to ensure that only those vehicles that carry valid "Pollution under control" (PUC) certificate issued by the authorized agency are permitted to ply in the State of Maharashtra and thereby adversely affecting the health and lives of millions of people all over the State of Maharashtra.

2. The applicant has prayed as follows:

"i) Urgently adopt and implement and in a time bound manner of a maximum of one year, or any such period this Hon'ble Tribunal

ii) Limit the number of PUC centres, upgrade them and bring them under strong supervision and quality control.

vi) Make quality audit of centres and calibration quarterly.

viii) Upgrade Testing Centres for high level of automatic emissions testing so that operators and vehicle drivers do not come in contact to influence the test results and credible and upgraded tests are conducted.

3. The applicant has also submitted that

1. The first third party audit of PUC centres has been effective in identifying operational problems in the PUC centres for corrective action. In view of this EPCA recommends that similar third party audits should be conducted every 6 months and the findings should be submitted to EPCA.

3. To improve compliance and prevent fraudulent practices in PUC centres, a networking system be created to link all the PUC centres through a central server to a centralized databank of PUC test results and the database of vehicle registration. This will be used for remote auditing and tracking compliance. The networking should become operational and data auditing must begin by January 2007. Delhi government must ensure that this deadline is not violated.

10. That despite the CMVR Rules being notified in the year 1989 and despite directions given in the year 2005 by Respondent No. 2 to Respondent No. 1 to audit the PUC centres and network the same, over the next twelve years the Respondent No. 1 has only slept over these crucial issues of controlling automobile pollution, which is adversely affecting the healthy and lives of millions of persons in the State of Maharashtra, since automobile pollution is the major cause of pollution in the urban and semi-urban areas.

11. That even as on today, the few thousand authorised PUC centres operating in Maharashtra are neither networked nor undergoing third party audits, as a result whereof a majority of the vehicles plying in the State do not regularly undergo PUC checks, as there is no procedure adopted by the Respondents to track these vehicles, despite there being an active database of vehicles in Maharashtra available with Respondent No. 1 and its offices throughout the State. This has resulted in utter manipulation and malpractices in issuance of PUC certificates, some of the common ones being:

- (a) Most of the vehicles do not undergo PUC checks and are outside the net of pollution control. As on 31.10.2016 there were around 2.91 crores vehicles registered in Maharashtra and this required around 5.82 crores PUC checks to be conducted every year, based on a test every six months. No one, including the Respondent No. 1, has any idea or information as to how many PUC checks are actually carried out every year by around 1,500 approved PUC centres in the State or how many vehicles are actually checked.
- (b) False PUC certificates issued, without the vehicle actually visiting the PUC centre. This forms the bulk of the actual PUC certificates issued.

False PUC certificates issued by unauthorised PUC centres.”

4. The Hon'ble Supreme Court of India has decided the similar matter in Writ Petition (Civil) No. 13029 of 1985 dated 24.08.2018 which is as follows:

“3. In 2003, the Government of India announced the National Auto Policy based on the recommendations of the Mashelkar Committee constituted in 2001. BS-IV compliant vehicles were made compulsory for four wheelers in different parts of the country on different dates starting from 01.04.2005, from which date registration of only BS-IV compliant vehicles were permitted in the metropolises of Delhi, Ahmedabad, Bengaluru, Mumbai, Pune and Kolkata. Thereafter, it was made compulsory to have BS-IV compliant vehicles in some other cities from 01.04.2010. More cities were added on 21.05.2010 and on 14.07.2015. Finally, by amendment dated 19.08.2015 it was mandated that BS-IV norms would come into force throughout the country w.e.f. 01.04.2017.

4. As far as two and three wheelers are concerned, they were made subject to BS-III norms on and with effect from 01.04.2010 by insertion of sub-rule 16 in Rule 115 of the Central Motor Vehicle Rules, 1989 hereinafter referred to as 'the Rules'. With effect from 04.07.2014, it was mandated that on and from 01.04.2016 all two wheeler vehicles will comply with BS-IV emission norms and all existing models will shift to BS-IV emission norms from 01.04.2017. Similarly, Rule 17 was inserted in Rule 115 of the Rules on 12.06.2015 in respect of three wheelers wherein BS-IV standard would be applicable to new models on or after 01.04.2016. Resultantly, only those vehicles which were BS-IV compliant would be sold after 01.04.2017.

10. On the other hand, Ms. Aparajita Singh, learned amicus curiae, has made a passionate plea that no non-BS-VI compliant vehicle should be permitted to be sold in the entire country after 01.04.2020. She has drawn our attention to the Report of the Parliamentary Standing Committee (for short 'the Committee') dated 07.08.2018. This Report mainly deals with National Capital Region (NCR) of Delhi but there are some references to the entire country. Some of the observations made by the Committee need to be considered and taken note of. The Committee in Para 5.15 notes that the problem of air pollution is affecting all human beings and any leniency on the part of the Government in tackling it will have a cascading effect on the health of the citizens. These observations have been made with specific reference to vehicular pollution and the need to ensure compliance of BS-VI norms with effect from 01.04.2020. There can be no two views that air pollution is hazardous to health. We may, also take note of certain observations of the Report of the Committee which show that one out of three children in Delhi suffers from respiratory problems. This is almost twice as high as compared to the city of Kolkata or rural areas. We may note that the World Health Organization's (WHO) database of more than 4,300 cities showed Indian cities of Gwalior, Allahabad, Raipur, Delhi, Ludhiana, Khanna, Varanasi and Patna as being among the most polluted in the world¹. Our attention has been drawn to various other documents which clearly show the deleterious effects of pollution on health. The hazards of pollution and its ill effect on the health of the citizens especially children are not limited to the city of Delhi or the NCR of Delhi but affect all the citizens of the country.

13. With regard to trucks and buses, from a news item published in the Financial Express dated 06.07.2018, it is apparent that Eicher is already manufacturing trucks and buses which are not only BS-VI compliant but BS-VI CNG compliant. Another manufacturer of heavy vehicles i.e. Ashok Leyland had, in August, 2018 through its subsidiary Optare obtained an order to manufacture the world's first, electric double decker buses. The technology needed to manufacture such electric buses is

¹ "World's Most Polluted Cities", World Economic Forum, 03.05.2018

much more advanced and difficult as compared to the technological changes required to manufacture petrol and diesel vehicles which are BS-VI compliant. Similarly, TVS Motors on 07.08.2018 has issued a press note that it will be manufacturing BS-VI compliant vehicles much ahead of the deadline of 2020. Many members of SIAM in the Auto Expo held in February, 2018 have exhibited vehicles which are technologically much more advanced than BS-VI compliant vehicles. These manufacturers have not only asserted that they can manufacture electric vehicles but also asserted that they are developing hydrogen cell fuel vehicles along with hybrid, electric and CNG vehicles.

14. We have mentioned these facts only to highlight that some of the manufacturers are not willing to comply with the 31.03.2020 deadline not because they do not have the technology but because the use of technology will lead to increase in the cost of the vehicles which may lead to reduction in sales of the vehicles and ultimately their profit. There can be no compromise with the health of the citizens and if one has to choose between health and wealth, keeping in view the expanded scope of Article 21 of the Constitution, health of the teeming millions of this country will have to take precedence over the greed of a few automobile manufacturers. The automobile manufacturers must behave responsibly. We expected that keeping in view our earlier order, they would have themselves volunteered to be BS-VI compliant by 31.03.2020. Unfortunately, this has not been the case with some of the manufacturers and they want to stretch on the timeline by a few days or months for no other reason but to make a little more money.

15. When we compare BS-VI fuel with BS-IV fuel, there is a massive improvement in environmental terms. Once BS-VI emission norms are enforced, there will be a 68% improvement in PM_{2.5}. This is not a small change. It is a vast improvement and the faster it is brought, the better it is. The amicus curiae has strenuously urged that, at least, in the NCR of Delhi, the BS-VI norms be applied for sale of vehicles from 01.04.2020. We feel that it may not be practical to introduce BS-VI compliant vehicles region-wise or city-wise. In our view, the BS-IV experiment in this regard was not very successful. BS-VI compliant vehicles are going to be more expensive than BS-IV compliant vehicles. People have a tendency to buy cheaper vehicle(s) even from a neighboring city. We also strongly feel that the problem of pollution is not limited to the NCR of Delhi but it is a problem which has engulfed the entire country especially the major cities. India has the dubious distinction of having 15 out of the 20 most polluted cities in the world. The pollution in Gwalior, Raipur & Allahabad is worse than Delhi. The situation is alarming and critical. It brooks no delay.

16. It is an established principle of law that the right to life, as envisaged under Article 21 of the Constitution of India includes the right to a decent environment². It includes within its ambit

² *Shantistar Builders v. Narayan Khimalal Totame* AIR 1990 SC 630;(1990) 1 SCC 520.

the right of a citizen to live in a clean environment³. With regard to vehicular traffic, this Court has issued a number of directions to ensure a clean environment and reduce pollution⁴. It has been held that the right to clean environment is a fundamental rights⁵. The right to live in an environment free from smoke and pollution follows from the "quality" of life which is an inherent part of Article 21 of the Constitution. The right to live with human dignity becomes illusory in the absence of a healthy environment⁶. The right to life not only means leading a life with dignity but includes within its ambit the right to lead a healthy, robust life in a clean atmosphere free from pollution. Obviously, such rights are not absolute and have to co-exist with sustainable development. Therefore, if there is a conflict between health and wealth, obviously, health will have to be given precedence. When we are concerned with the health of not one citizen but the entire citizenry including the future citizens of the country, the larger public interest has to outweigh the much smaller pecuniary interest of the industry, in this case the automobile industry, especially when the entire wherewithal to introduce the cleaner technology exists.

17. It is therefore necessary to ensure that BS-VI compliance is uniform throughout the country so that even those areas of the country which fortunately have not suffered the ills of extreme pollution are safe in the future. The sale of automobiles and other vehicles is rising exponentially and the number of vehicles on the road is increasing day by day. Therefore, even a day's delay in enforcing BS-VI norms is going to harm the health of the people. We are dealing here with a situation where children and unborn children suffer from pollution and issues of inter-generational equity are involved. Do we as a society or as manufacturers of automobiles have a right to manufacture more polluting vehicles when we have the technology to manufacture less polluting vehicles? The answer is obviously a big NO. If we were to factor only economics even then it makes no economic sense to have more polluting vehicles on the roads. The effect of pollution on the environment and health is so huge that it cannot be compensated in the marginal extra profits that the manufacturers might make. The amount spent on countering the ills of pollution such as polluted air, damaged lungs and the cost of healthcare far outweigh the profits earned.

18. It was urged on behalf of the manufacturers that there are multiple sources of pollution and vehicles only contribute to 2% of the pollution. We are not in agreement with this submission

³ *Bhavani River Sakthi Sugars Ltd., In re*, (1998) 2 SCC 601

⁴ *M.C. Mehta v. Union of India*, (1998) 6 SCC 60, *M.C. Mehta v. Union of India*, (1998) 6 SCC 63, *M.C. Mehta v. Union of India* (Matter regarding emission standard for vehicles), (1999) 6 SCC 12, *M.C. Mehta v. Union of India*, (2002) 10 SCC 191, *M.C. Mehta v. Union of India*, 2017 SCC Online SC 394

⁵ *N.D. Jayal v. Union of India*, (2004) 9 SCC 362.

⁶ *Shantistar Builders vs Narayan Khimalal Gotame & Ors. Etc*, AIR 1990 SC 630, *M.C. Mehta v. Union of India*, (2004) 12 SCC 118, *State of M.P. v. Kedia Leather & Liquor Ltd.*, (2003) 7 SCC 389.

because the Report of the Committee to which we have adverted hereinabove states that contribution of vehicles to ambient PM_{2.5} concentration during winter season is 25% and in the summer season it contributes 9%. Even if we were to accept the figures submitted by SIAM, we are of the view that no step is too small when it comes to fighting pollution. Small steps to reduce pollution when taken together will lead to large scale reduction in pollution which will result in much cleaner air, which eventually will result in a cleaner and better environment, healthier citizens and most importantly a healthier generation to come.

19. In view of the fact that these proceedings have been pending in court for a long time and also in view of the fact that it is because of orders of this Court that BS-IV and now BS-VI norms have been introduced from the dates which were not even thought of by the Government, we feel that we have to take *sup moto* notice of the Rules. At the outset, we may notice that sub-rule 21 of Rule 115 is very vague. It does not talk of sale of vehicles. It only mentions registration of vehicles and permits registration of vehicles conforming to BS-IV norms up to 30.06.2020 and in case of categories M & N, up to 30.09.2020. This rule, in our view, is violative of Article 21 of the Constitution in as much as it extends time for registration of vehicles beyond 31.03.2020 and must be accordingly read down. Any extension of time in introducing the new norms which is not absolutely necessary adversely impacts the health of the citizens and is, therefore, violative of Article 21 of the Constitution of India. This Rule goes against the spirit of all the orders passed earlier by this Court. In the month of March, 2017 we were dealing with a situation when BS-VI norms were to be made effective throughout the country with effect from 01.04.2020 and this Court had directed that non- BS-IV compliant vehicles shall not be registered on or after 01.04.2017. The situation in the present case is totally different. 31.03.2020 is almost 1 1/2 years away. There is sufficient time for the manufacturers to change over to the new system and, therefore, we see no reason why they should be given a window of three or six months for sale of accumulated vehicles. Every vehicle sold after the cut-off date of 01.04.2020 is bound to cause more pollution and, therefore, the manufacturers, in our considered view, cannot be permitted to sell any non-BS-VI compliant vehicle on or after 01.04.2020. On the one hand, the Government has been proactive in spending huge amounts of money to move to the BS-VI technology, but on the other hand, the automobile industry is coming up with a variety of untenable excuses just to delay the introduction of BS-VI compliant vehicles by a few months. We, in our judgment dated 13.04.2017, had clearly held "when the health of millions of our countrymen is involved, notification relating to commercial activities ought not to be interpreted in a literal manner." We have to give a purposive interpretation to notifications specially those dealing with public health issues and even more so, when health not only of the citizens at present but also the citizens in the future is involved. There is more than sufficient time for the manufacturers to manufacture BS-VI compliant vehicles. They already have the technology to

do so. The automobile industry must show the will, responsibility and urgency in this regard.

20. The Government has developed a policy of phasing out polluting vehicles and discouraging the manufacturers of polluting vehicles. This has been done in a gradual manner. Europe introduced Euro-IV fuel in the year 2009 and Euro-VI standards in 2015. We are already many years behind them. We cannot afford to fall back further even by a single day. The need of the hour is to move to a cleaner fuel as early as possible.

21. Therefore, in exercise of the power vested in this Court under Article 142 of the Constitution, we read down sub-rule 21 of Rule 115 and direct that sub-rule 21 of Rule 115 shall be interpreted and understood to read that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 01.04.2020.”

5. There is another judgment of NGT in the matter of *Original Application No. 21 of 2014, Vardhaman Kaushik vs. Union of India & Ors.* and this Tribunal has issued directions as follows:

“12. The applications have been filed seeking permission to continue the use of 10 years old diesel vehicles or registration of new diesel vehicles which are non BS-IV compliant or which are not needed for essential services. Such applications cannot be allowed, since the order of Tribunal dated 11.12.2015 prohibits diesel vehicles and exception has been made only in the case of vehicles engaged for essential services, pending alternatives being explored.”

6. The Applicant submits that Schedule VI, in part E of the Environment (Protection) Rules, 1986 specify the noise limits relating to noise standards for vehicles at the manufacturing stage with effect from 1st July, 2005, which is to be monitored as per test method IS: 3028-1988,. The Applicant claims that he came to know recently that the Respondents are neither monitoring the noise levels of constructed vehicles at the manufacturing stage, in accordance with IS: 3028-1988 nor they are ensuring compliance of noise limits by these vehicles, as specified in Schedule VI, Part E, of the Environment (Protection) Rules, 1986. The Applicant further submits that the noise pollution caused by the moving vehicles is,

by far the biggest contributor to the noise pollution all over the country and, therefore, it is necessary to enforce and monitor the compliance of noise standards for the vehicles at manufacturing stage, as prescribed under Schedule VI, Part E, of the Environment (Protection) Rules, 1986. The Applicant further submits that the Air (Prevention and Control of Pollution) Act, 1981, has defined the "air pollutants" as any solid, liquid or gaseous substance (including noise) in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or the property or environment. He further submits that by subsequent amendment the 'noise' has also been included as an 'air pollutant' in the said Act. The Applicant further submits that under Section 16 of the said Act, the Central Pollution Control Board has overall responsibility to improve quality of air and to prevent, control or abate air pollution in the country. Further, it is contended that as per Sub Section (2) (h) of Section 16 of this Act, the Respondent No.3, is required to lay down standards for the quality of air. The applicant also submits that State Pollution Control Board, i.e. Respondent No.4 is required under Section 17(i) (g) of this Act, to lay down, in consultation with the Central Board, and having regard to standards for quality of air, laid down by the Central Board, standards for emission of air pollutants into the atmosphere. The Applicant also submits that Maharashtra Pollution Control Board (MPCB), has powers to give instructions and directions under Section 31 A of the said Act for ensuring implementation of emissions standards discharged by automobiles, any vehicles or machinery in the atmosphere.

7. Before entering into the arena of above issues, we would like to lay emphasis on fact that increasing noise levels in the urban areas, is posing a serious threat to health of the people in general and especially to the children and old, in particular. The Hon'ble Supreme Court and various High Courts, have time and again emphasized the need to control noise pollution and we do not wish to reproduce all such catena of Judgments, as importance of maintaining noise levels within urban areas was generally agreed by the learned Counsel appearing in the present Application too. It is also an admitted fact that automobiles, due to its engine (auto mechanism) noise and also, noise generated by blowing of horns contribute significantly to ambient noise levels in urban areas. Needless to say that various reports available in the public domain, record that ambient noise levels in most of urban areas in the country are exceeding the ambient noise level standards as set out in the Noise Pollution (Regulation and Control) Rules, 2000. Noise pollution is a significant environmental problem in many urban areas. This problem has not been adequately addressed and remedied despite the fact that it is growing in developing countries. This widespread non- recognition of noise pollution problem, in a similar fashion as to air and water pollution problems, could be attributed to reasons such as; by the definition and perception of noise as a subjective experience, short decay time, and difficulty to associate cause with effect when it comes to health impacts. Depending on its duration and volume, the effects of noise on human health and comfort are divided into four categories; physical effects, such as hearing defects; physiological effects, such as increased blood pressure, irregularity of heart rhythms and ulcers;

psychological effects, such as disorders, sleeplessness and going to sleep late, irritability and stress; and finally effects on work performance, such as reduction of productivity and misunderstanding what is heard.

8. The present Application raises a substantial issue of implementation of noise standards of automobiles as defined under Environment Protection Rules. We have noted that Govt. of India has already notified such standards under the provisions of Environment (Protection) Rules, 1986. These standards have two phases of implementation of noise limits, for vehicles at manufacturing stage: (1) for the vehicles manufactures from 2003 and (2) for the vehicles manufactured from 1st April, 2005. The standards also stipulate that test method to be followed for enforcing such noise limits, shall be IS: 3028-1998. These standards are mentioned in paragraphs (5) and (6), as shown herein above.

9. The Motor vehicle rule 120 prescribes the noise standards for automobiles at manufacturing stage and are as under:

“120. (1) xxx xxx xxxx xxxx (2) Noise standards--Every motor vehicle shall be constructed and maintained so as to conform to noise standards specified in Part E of the Schedule VI to the Environment (Protection) Rules, 1986, when tested as per IS: 3028-1998, as amended from time to time. Similarly, Section 126 of the Central Motor Vehicles Rules, stipulate the requirement that prototype every motor vehicle to be subjected to test. The Rule is reproduced below:

126. Prototype of every motor vehicle to be subject to test--- On and from the date of 'Commencement' of Central Motor Vehicles (Amendment) Rules 1993, every [manufacturer or importer] of motor vehicles other than trailers and semi-trailers shall submit the prototype of the vehicle [to be manufactured or imported by him] for test by the Vehicle Research and Development Establishment of the Ministry of Defence of the Government of India or Automotive Research Association of India, Pune, [or the, Central Farm Machinery Testing and Training Institute, Budni (MP)] or the Indian

Institute of Petroleum, Dehradun, [or the Central Institute of Road Transport, Pune, or the International Centre, for Automotive Technology, Manesar,] [or the Northern. Region Farm Machinery Training and Testing Institute, Hisar testing of combine harvester)] and such other agencies as may be specified by the Central Government or granting a certificate by that agency as to the compliance of provisions of the Act and these rules:

[Provided that the procedure for type approval and certification of motor vehicles of compliance to these rules shall be in accordance with the AIS; 017-2000, as amended from time to time:] [Provided further that in respect to the vehicles imported into India as completely built units (CBU), the importer shall submit a vehicle of that particular model and type to the testing agencies for granting a certificate by that agency as to the compliance to the provision of the Act and these rules.] [126A. The testing agencies referred to in rule 126 shall in accordance with the procedures laid down by the Central Government also conduct tests on vehicles drawn from the production line of the manufacturer to verify whether these vehicles conform to the provisions of [rules made under section 110 of the Act].] [Provided that in case the number of vehicles sold in India for a given base model and its variants (manufactured in India or imported to India) are less than 250 in any consecutive period of six months in a year, then such base model and its variants need not be subjected to the above test, if at least one model or its variants manufactured or imported by that manufacturer or importer, as the case may be, is subjected to such tests at least once in a year:

Provided further that, in case the number of base models and its variants manufactured/imported is more than one and if the individual base model and its variants are less than 250 in any consecutive period of six months in a year, then the testing agencies can pick up one of the vehicle out of such models and their variants once in a year for carrying out such test.]”

10. The provisions of Rule 120 of the Central Motor Vehicles Rules, 1989 are very specific as standards specified under the Environment (Protection) Rules, 1986 have been adopted for every motor vehicle at construction stage and also while it is put to use. Therefore it is necessary that compliance of such standards, need to be independently verified and assessed by the concern agencies while granting Certificate of Test, under the Rule 126 of the Central Motor Vehicles Rules, 1989. It is necessary that the provisions of

IS: 3028-1998, shall be strictly adhered to while testing noise limits from the automobiles.

11. In the absence of an effective mechanism to enforce and implement the Noise standards prescribed under the EP Rules and Motor Vehicles Rules, the noise pollution mainly in urban areas cannot be effectively controlled. Hon'ble Apex Court and High Court decisions referred by Applicant in the Application have given significant impetus to the implementation of noise related regulations. The Apex Court in WP (c) No.72 of 1998 with CA No.3735 of 2005 (arising out of SLP (c) No.2185) (2005) 5 SCC 733 in "Re: Noise Pollution vs Unknown 18 July, 2005" observed that:

"98. Not that the Legislature and the Executive in India are completely unmindful of the menace of noise pollution. Laws have been enacted and the Rules have been framed by the Executive for carrying on the purposes of the legislation. The real issue is with the implementation of the laws. What is needed is the will to implement the laws. It would be useful to have a brief resume of some of the laws which are already available on the Statute Book. Treatment of the problem of noise pollution can be dealt under the Law of Crimes and Civil Law. Civil law can be divided under two heads (i) The Law of Torts and (ii) The General Civil Law. The cases regarding noise have not come before the law courts in large quantity. The reason behind this is that many people in India did not consider noise as a sort of pollution and they are not very much conscious about the evil consequences of noise pollution. The level of noise pollution is relative and depends upon a person and a particular place. The law will not take care of a super sensitive person but the standard is of an average and rational human being in the society."

33. The Apex Court further observed that:

169. The need for checking noise pollution as highlighted by the petitioners and several interveners deserves appreciation.

170. Need for specific legislation to control and prevent noise pollution still needs some emphasis. Undoubtedly, some laws have been enacted. Yet, compared with the legislation in developed countries India is still lagging behind in enacting adequate and scientific legislations. We need to have one simple but specific and detailed legislation dealing with several aspects referable to noise pollution and providing measures of control therefore.

171. There is an equal need of developing mechanism and infrastructure for enforcement of the prevalent laws. Those who are entrusted with the task of enforcing laws directed towards controlling noise pollution, must be so trained as to acquire expertise in the matter of fighting against noise pollution by taking preventive and deterrent measures both. They need to be equipped with the requisite equipments such as audio meters as would help them in detecting the level of noise pollution more so when it crosses the permissible limits and the source thereof.

172. Above all, there is need for creating general awareness towards the hazardous effects of noise pollution....."

12. In substance, it can be observed that there is no effective mechanism for implementation of noise standards for automobiles.

Though the Respondents have taken some steps, but they are pointing fingers towards others in the context of duty to perform the Rules. There is lack of synergy and coordination amongst the Respondents. This cannot be allowed to continue, in view of the serious impacts of noise pollution. The Apex court has clearly focused on implementation of existing regulations and also, need of specific regulations while dealing with noise pollution. The applicant submits that:

- (a) the maximum noise levels in relation to certain classes of motor vehicles and motor vehicle accessories, such that vehicles and accessories capable of emitting those noise levels cannot be sold,
- (b) the use of motor vehicles on roads and other places,
- (c) the use of motor vehicle horns and motor vehicle intruder alarms,
- (d) the times during which it is not permissible to use certain motor vehicles if they emit noise that can be heard in other residential premises,
- (e) the sounding of sirens and similar devices on vessels,
- (f) the emission of noise from the engines or exhausts of vessels,
- (g) the times during which it is not permissible to use certain sound systems on vessels if they emit noise that can be heard in any residential premises,

(h) the maintenance of noise control equipment on motor vehicles and vessels,

(i) the issue of defective vehicle notices and defective vessel notices.

13. This particular provision clearly implies that once the standard is prescribed by the State-Board for emission of air pollutants from automobiles under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, State Govt. is required to give such instructions, on recommendations of SPCBs, as may be deemed necessary to the concerned Authority in-charge of registration of the motor vehicles under the Central Motor Vehicles Act and such Authority shall notwithstanding anything containing in that Act, or Rules made there under be bound to comply with such instructions. Govt. of Maharashtra vide GR dated 21st April, 2009, has directed the Transport Authorities to implement the noise standards identified under the Environment (Protection) Rules, 1986. Though we appreciate the initiatives taken by State of Maharashtra and MPCB, we find that this delegation of powers, is not backed up by provisions of Section 17 and 20 of Air Act, 1981 or other regulations. It is also not clear how the Transport department, i.e. R-7 will implement this provision, as they have already filed affidavit that they just rely on the certificate of road worthiness as contemplated under the MV Rules. What we find is that the Authorities need to consider either prescribing new standards for the vehicle noise in the State under the provisions of Air Act or may even like to adopt the standards specified under the Environment (Protection) Rules, 1986 for the purpose under Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, and then the State Govt. can direct the

Transport Authorities, under Section 20 read with Section 17 (1) (g) of the Air (Prevention and Control of Pollution) Act, 1981, which will enable them with legal powers and empower to implement such directions.

14. Public awareness, education and information dissemination related to environmental issues have already been identified as important initiatives by various judgments of Apex court. Apex Court in Writ Petition (C) No. 72 of 1998 with Civil Appeal No. 3735 of 2005 [Arising out of SLP (C) No. 2185 (2005) 5 SCC 733 has issued directions as directed in para 179 of the judgment, issued in exercise of power conferred on Apex Court under Articles 141 and 142 of the Constitution of India, which would remain in force until modified by Court or superseded by an appropriate legislation, which are as under:

"1. There is a need for creating general awareness towards the hazardous effects of noise pollution. Suitable chapters may be added in the text-books which teach civic sense to the children and youth at the initial/early level of education. Special talks and lectures be organised in the schools to highlight the menace of noise pollution and the role of the children and younger generation in preventing it. Police and civic administration should be trained to understand the various methods to curb the problem and also the laws on the subject.

2. The State must play an active role in this process. Residents Welfare Associations, Service Clubs and Societies engaged in preventing noise pollution as a part of their projects need to be encouraged and actively involved by the local administration.

3. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out."

15. The provision of information on sound emissions due to automobile to consumers and public authorities has the potential to influence purchasing decisions and accelerate the transition to a quieter

vehicle fleet. Accordingly, we hold that the automobile manufacturers should provide information on sound levels of vehicles at the point of sale and in technical promotional material, providing information to the consumers about the sound emissions of a vehicle and also the horns based on Precautionary Principle. It is also necessary that the certificate of compliance issued under rule 120 (2) or even that of horn/silencer etc. for each type approval shall also be provided to the automobile purchaser and also, the same shall be available on automobile manufacturer's website in public domain, for each prototype of vehicle. The MPCB shall notify the noise emission standards for vehicles at manufacturing and in-use stage and thereafter issue necessary directions under Section 20 of the Air (Prevention and Control of Pollution) Act, 1981, to the concerned Authorities for enforcement of such standards.

16. After considering above points as raised by the applicant, we are of the view that the rules and regulation and notifications issued from time to time by the Govt. of India to improve the quality of the environment, including limiting the emission of vehicular pollutants, both in new and unused vehicles should be applied in the State of Maharashtra and the conditions as laid down in the affidavit submitted by the respondent no. 1- Transport Commissioner, Maharashtra must be complied in letter and spirit. In light of the report submitted by MSPCB, we further direct respondents:

1. To ensure strict compliance of Rule 115 sub Rule (7) of the Central Motor Vehicle Rules, 1989 stipulated that only vehicles that carry valid "PUC: Certificate issued by authorised agency

are permitted to ply in the State of Maharashtra so as to prevent air pollution due to vehicles do not having PUC certificate.

2. To record the PUC data only so to automatically linked with the Central Server with uniform standardise software.
3. To introduce annual third party inspection of PUC centres.
4. To limit the number of PUC centres upgrade them under strong supervision and quality control.
5. To ensure 100%compliance by linking annual vehicle insurance and vehicle registration with PUC certificate.
6. To adopt uniform and standardised data recording and reporting format and uniform software and introduce automatic online network for transmission of PUC data to the Central Server and to allow proper analysis of data for remote auditing of PUC centres.
7. To strengthen inspection of PUC centres for quality control and strengthen the licensing programme to ensure proper calibration authentic test, annual maintenance contract for the maintenance of all testing equipment and accessories training of operators, calibration of equipment etc. are carried out.
8. To make quality audit of centres and calibration quarterly.
9. To upgrade testing centres for high level of automatic emission testing so that operators and vehicles drivers are prevented from manipulation of results.
10. To introduce well equipped mobile test centres and a programme to check visibly polluting vehicles.

17. Accordingly, Original Application No. 117 of 2017 is finally disposed of.

Sheo Kumar Singh, JM

Siddhanta Das, EM

June 25, 2020
Original Application No. 117/2017 (WZ)
MN



Item No.7

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Execution Application No.06/2023(WZ)
In
Original Application No.117/2017 (WZ)
(Disposed of on 25.01.2020)**

Dileep B. Nevatia

.....Applicant

Versus

The Motor Vehicle Department and Ors.

....Respondent(s)

Date of hearing: 16.02.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant in-person

Respondent(s) : Shri Amar V. Desai, A.R.T.O., Pune for R-1
Mr. Vilas Jadhav, Advocate for R-2/MPCB.

ORDER

1. This execution application has been filed seeking execution/implementation of the order dated 25.06.2020 passed by the Tribunal in Original Application No.117/2017 (WZ) (Dileep B. Nevatia Vs. The Motor Vehicle Department and Ors.), whereby following directions were given:-

- “
1. To ensure strict compliance of Rule 115 sub Rule (7) of the Central Motor Vehicle Rules, 1989 stipulated that only vehicles that carry valid "PUC: Certificate issued by authorised agency 18 are permitted to ply in the State of Maharashtra so as to prevent air pollution due to vehicles do not having PUC certificate.
 2. To record the PUC data only so to automatically linked with the Central Server with uniform standardise software.
 3. To introduce annual third party inspection of PUC centres.
 4. To limit the number of PUC centres upgrade them under strong supervision and quality control.
 5. To ensure 100%compliance by linking annual vehicle insurance and vehicle registration with PUC certificate.

6. *To adopt uniform and standardised data recording and reporting format and uniform software and introduce automatic online network for transmission of PUC data to the Central Server and to allow proper analysis of data for remote auditing of PUC centres.*
7. *To strengthen inspection of PUC centres for quality control and strengthen the licensing programme to ensure proper calibration authentic test, annual maintenance contract for the maintenance of all testing equipment and accessories training of operators, calibration of equipment etc. are carried out.*
8. *To make quality audit of centres and calibration quarterly.*
9. *To upgrade testing centres for high level of automatic emission testing so that operators and vehicles drivers are prevented from manipulation of results.*
10. *To introduce well equipped mobile test centres and a programme to check visibly polluting vehicles."*

2. The present execution application was first considered by us on 03.04.2023 when it was admitted and notices were directed to be issued to the respondents.

3. In compliance with the said notice, from the side of respondent No.1- The Motor Vehicle Department through its Transport Commissioner, Shri Amar V. Desai, Assistant Regional Transport Officer has appeared in-person before us. A reply affidavit dated 28.07.2023 has been filed from its side, wherein it is submitted that directions were given by this Tribunal to ensure strict compliance of Rule 115(7) of the Central Motor Vehicles Rules, 1989 and that only vehicles that carry valid "Pollution under Control" (PUC) Certificate, issued by the authorized agency, are required to be permitted in the State of Maharashtra.

4. It is further mentioned in this affidavit by the respondent No.1 that the said rule provides that after the expiry of a period of one year from the date on which the motor vehicle gets registered first, every such vehicle shall carry a valid "Pollution under Control" Certificate, the validity of which shall be for one year for the motor vehicles complying with Bharat Stage IV and VI pollution norms and for other vehicles, the validity shall be six months and that the said rule also provides that such PUC

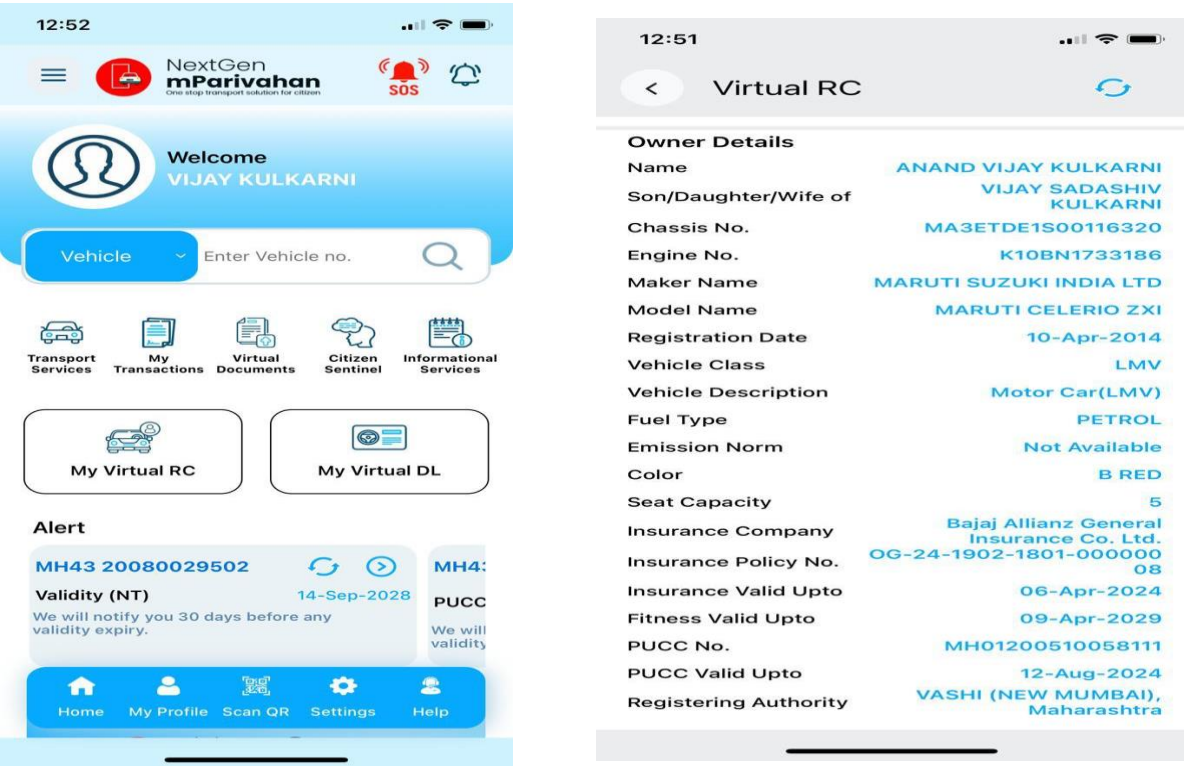
Certificate shall always be carried in the vehicle and be produced on demand by the Officers as referred to in sub-rule 1 of rule 116.

5. It is further mentioned in this affidavit by the respondent No.1 that the Regional / Deputy Regional Transport Offices have granted licenses to PUC Centres in their respective jurisdiction, as per Rules prescribed by the Transport Commissioner Office from time to time. The valid authorised PUC Centre List is also available on the website of www.Parivahan.gov.in, which is maintained by the Ministry of Road Transport and Highways, Govt. of India. These authorized PUC Centers are conducting tests of emission of smoke, vapour, etc. from the motor vehicles as per the provisions of the Motor Vehicles Act, 1988 and Rules made thereunder.

6. It is further mentioned in this affidavit by the respondent No.1 that in compliance with the direction given by this Tribunal in para no.16(1) of the Order dated 25.06.2020, it is submitted that the regular checking of PUC Certificates is being conducted by the flying squads of the Regional/Deputy Regional Transport Offices. The action under section 115 read-with Section 190 (2) of the Motor Vehicles Act has been initiated against the defaulters so as to prevent air pollution from the motor vehicles. If Owner / Driver of the Motor Vehicle failed to produce a PUC Certificate at the time of checking or within 7 days from the issuance of the checking report, the action under Section 115 read-with Section 177 of the Motor vehicles Act, 1988 is initiated against the Owner/ driver of the Vehicle. The statistics is also given, in respect to vehicles checked where detection is made of violation as well as the recovery made from the violators, in tabular form.

7. It is further mentioned in this affidavit by the respondent No.1 that in compliance with the clause 16(2) of the Order dated 25.06.2020 passed by this Tribunal, it is submitted that as per Notification No.GSR 196 (e)

dated 28.02.2018, the Central Government has amended the Rule 115 (2) by which provision uploading vehicle emission result during testing for in-use vehicles are required to be electronically updated on Central Vahan data-base. We have come to know as per our own experience that there is an app. created by the name mParivahan, on which these informations are being updated. For the sake of convenience, we are reproducing here the self-assessment report of the same:-



8. It is further mentioned in this affidavit by the respondent No.1 that this provision is in force in the State of Maharashtra w.e.f. 01.04.2019 to give effect to the provisions of the Transport Commissioner's Office Circular dated 20.03.2019. A copy of this Circular is annexed as Exhibit-1
9. With respect to compliance related to Clause 16(3) & (4) of the Order dated 25.06.2020 of this Tribunal, it is submitted that the Transport Commissioner's office issued SOP for the PUC Centre, which is implemented from Sep, 2022, a copy of which is annexed as Exhibit-.2. In clause-11 of the said SOP, there is a provision made for surprise inspection at least once a year to ensure proper working of the Centers. The Transport

Commissioner's office issued a Circular to all the Regional/Deputy Regional Transport Officers to conduct surprise inspection of PUC Centres on 13.07.2023. A copy of the said circular is annexed as Exhibit-3.

10. It is further mentioned in this affidavit by the respondent No.1 that in compliance with the clause 16 (5) of the Order dated 25.06.2020 of this Tribunal, it is submitted that noting of Insurance is done automatically on the Vahan System (mParivahan). The issue of updating the vehicle details related to the insurance of new vehicles as well as renewal of the insurance policy of old vehicles are updated on VAHAN 4.0, which is being handled by the Insurance Information Bureau of India.

11. It is further mentioned in this affidavit by the respondent No.1 that in compliance with the clause 16 (6) of the Order dated 25.06.2020 of this Tribunal, it is submitted that as per the amended provisions of Rule 115(2) of the Central Motor Vehicles Rules- 1989, emission result during testing of vehicles are updated electronically on Central Vahan data-base. With respect to direction issued by this Tribunal in clause 16 (7) and 16 (8), it is submitted that the authorization to conduct a pollution test of the vehicles is granted by the respective Regional Transport Offices, as per the guidelines issued by the Transport Commissioner's office and Online PUC programme is made in such a way that without valid calibration certificate, respective PUC Centre cannot issue a PUC certificate to the Vehicle. It is observed by the Transport Commissioner's office that the functioning of the PUC test centres are required to be properly regulated and controlled. Hence, a draft SOP is prepared and submitted to the Government of Maharashtra. The Government of Maharashtra vide its letter dated 23.09.2022 had approved the said SOP for the PUC centres, which regulates and controls PUC testing centres in the State of Maharashtra, which provides every aspect regarding the license. This SOP also provides uniformity in the State of Maharashtra.

We find that the submission, which has been made in para no.11 of this affidavit, is little ambiguous as it is not clearly worded. But what could be made out from it, appears to be that those instruments, which are employed for indicating the pollution, emanating from the vehicles, are tested as per the Automotive Industry Standards (AIS)- 137 (Part-4), which was issued in February 2019, which relates to Test Method, Testing Equipment and Related Procedures for Type Approval and Conformity of Production (CoP) Testing of M & N Category Vehicles having GVW exceeding 3500 kg for Bharat Stage VI (BS-VI) Emission Norms as per CMV Rules 115, 116 and 126. This information, we have taken from net from the website of Ministry of Road, Transport and Highways and it is also observed by us that with respect to direction at Clause 16(9) and 16(10) relating to testing Centers to make them high level of automatic emission testing Centers, it appears that adequate measure is taken by even scrutinizing those instruments, which are employed for gaging the pollution. With respect to direction at clause no.16(10) of the said Judgment, which pertains to introducing well equipped mobile test centers, we found on our own that these mobile centers are available, though no specific mention is made in para no.11 of this affidavit in that regard.

12. From the side of execution applicant, who has appeared in-person before us through Video Conferencing, a rejoinder affidavit dated 13.02.2024, against the affidavit of respondent No.1, has been filed, wherein main emphasis has been laid that the vehicles, which were checked and detected to be defaulting and fine recovered, show that a quarter of vehicles, which were checked, were found to be defaulting and that if calculation is made, that would reveal that around 25% of the total vehicles or about 100 lakh vehicles are running on the roads without being PUC compliant in the State of Maharashtra, which is going to be a great threat to the spread of air pollution. In this regard, we express our opinion

here that it is always possible to make a random checking of the same and it is the duty of the citizen/vehicle owner to ensure that their vehicle has a PUC Certificate, then only the said vehicle should be allowed to run on the road. But if they are found violating the said rule, they are penalized by imposing penalty, for which the provision is already made. We are convinced that the compliance in this regard seems to be adequate.

13. The other important non-compliance from the side of respondent No.1, which we found from the record, is with respect to direction no.16(3), which says to introduce annual third party inspection of PUC Centers. This admittedly has not been complied with, which is candidly admitted by Shri Amar V. Desai, A.R.T.O., Pune, who is present before us. We provide two months' further time to the respondent No.1 for compliance of this direction or to get the said direction set aside because the respondent No.1 has not approached any higher forum for the same.

14. With regard to rest of the compliances, which are recorded by us above as per the affidavit of respondent No.1, we are satisfied with the same.

15. With the above direction, we dispose of this application.

16. All pending applications, if any, also stand disposed of. No order as to cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 16, 2024
Execution Application No.06/2023(WZ) In
Original Application No.117/2017 (WZ)
(Disposed of on 25.01.2020)
P.Kr

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

	residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

		entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015 &
M.A. NO. 234 OF 2015)**

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava, Adv.
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate
	Respondent No. 2 & 4:	Mr. Narendra Pal Singh, Adv. and Mr. Dinesh, Adv.
	Respondent No. 3,5,6:	Mr. Ardhendumauli Kumar Prasad, Adv. Mrs. Avnish Ahlawat, and Mr. Nitish Singh, Adv. Mr. M.K. Sharma and Mr. R.R. Rasana, Adv. Ms. Savitri Pandey, Adv. for the State of U. P. Mr. Sanjeev Ailawadai, Adv. and Ms. Priyadeep, Adv. in M.A. Nos. 122/2015 and 2019/2015 Mr. I.K. Kapila, Mr. S.K. Pobbi, Ms. Shiksha Rai and Mr. A.K. Singh, Adv. In M.A. No. 200 of 2015 Mr. Balendu Shekhar and Mr. Vivek Jaiswal, Adv. Ms. Puja Kalra and Mr. Dhamendra Kumar, Adv. for South and North MCD Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. Mr. Rajiv Bansal, Mr. Kush Sharma and Ms. D. Ray, Adv. for DDA Mr. D. Rajeshwar, Adv. Mr. M. Yogesh Kaura with Mr. A. Santha Kumar, Adv. Mr. Arun Barroka, Mr. Jayesh Kumar, Mr. G.P. Bansee and Mr. Diwakar Aggarwal, Adv. Mr. Zubaida Begam, Adv. Mr. Raman Yadav, Adv. Mr. Rakesh K. Sharma, Inspector, Mr. Abhishek K. Sharma, ACP, Mr. Mahesh Kumar, SHO, Mr. S.K. Patil, ACP, Mr. Rishi, ACP, Mr. Sunder Kumar and Inspector Chauhan,

And

Present:	Applicant:	Mr. Sanjay Kulshreshtha,
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 7:	Mr. Rahul Choudhary, Adv.

Respondent No. 10: **Mr. M. Yogesh Kaura with Mr. Santha Kumar, Advs.**

	Date and Remarks	Orders of the Tribunal
	Item No. 08 & 09 March 16, 2015	Under the orders of the Tribunal the CPCB had been directed to assess the NCRs ambient air quality status, and the Board has in furtherance thereto carried out the studies and submitted a report The National Capital Region (for short ‘NCR’) is a unique example of interstate regional development planning for a region with NCT of Delhi as its core. This region covers an area of near 34,144 km. Nothing contrary to the case pleaded by the Applicants and as widely reported by the print media has come to the notice of this specialized body. On the contrary it brings on record an alarming situation of polluted ambient air quality in the NCT of Delhi. Just to notice a few, nitrogen dioxide was found to be beyond the prescribed value of 80 µg/m³ i.e. range of 4-367 µg/m³ on 145 occasions in Delhi on 24 hour basis. Particulate Matters (PM₁₀) of the monitoring locations, the value ranged from 14-948 µg/m³ against the prescribed limit of 100 µg/m³ on 538 occasions out of 545. In case of particulate matter PM_{2.5}, the samplings show value ranges from 30.41 to 1284 µg/m³ indicating that almost all of them exceed the NAAQS standard of 60 µg/m³. Carbon monoxide sampling showed the value ranged from 0.2 to 21.19 mg/m³ which exceeds the prescribed NAAQS standard of 2 mg/m³. In this report, it has also been noticed that ambient air quality during peak hours shows PM₁₀, PM_{2.5}, CO and Benzene exceeds the prescribed standards.

	At this stage we may also make a reference to a connected Application i.e. original application no. 95 of 2014 wherein Cardio Pediatric Surgeon, who moved a petition before the Hon'ble Supreme Court of India which is transferred to this Tribunal, has contended that the ambient air quality in most of the Metropolitan cities and even including Agra is so injurious to human health that it would adversely affect human foetus and newly born children between 1 to 5 years would be exposed to very high risk of developing respiratory health problems. Presence of pollutants in the ambient air quality of Delhi is a matter of concern for all stake holders. Human health is an integral facet of Right to life and thus must take precedence over all commercial and infrastructure projects. The principal of inter generational equity demands that all institutions, be it legislature, judiciary, executive, must make all possible endeavor to ensure proper air quality as it must pass on to its next generation if not improved but atleast, the environment that it has inherited from it ancestors. The scientific data undoubtedly indicates that the problem is very severe and if not checked the results would be drastic. Nobody can claim a right which will infringe upon or destroy the right to life. The Hon'ble Supreme Court of India in many cases has held that healthy, clean and decent environment is a mandate of Article 21 of the Constitution of India. Thus, strict enforcement of environmental provisions of law is the duty of all concerned including this Tribunal. We are pained to note that despite our repeated persuasive and mandatory orders the Authorities concerned have not

	risen to the occasion for taking proper and effective steps. The response lacks will and bonafides and exhibits callous attitude of shifting responsibility from one to other. This compelled us to pass an order on 10th March, 2015 resulting in issuance of show cause notice to the concerned Authorities of the State as to why an order of attachment and civil imprisonment in the terms of Order XXI of the CPC besides other actions that the Tribunal could take within the scheme and provisions of the National Green Tribunal Act, 2010 be not taken for non-compliance of the orders of this Tribunal which in any case is to be executed as a decree of the Civil Court. The Secretary, PWD appeared before us and assure to the Tribunal that within one week from today the steps would be taken. Though we hardly found any justification for non-compliance of the Orders and directions of the Tribunal, still on the assurance given by the Senior Officer of the NCT of Delhi, we would grant last opportunity to the NCT of Delhi and its Department and Police Authority to ensure the compliance of the directions contained in the various orders of the Tribunal. However, it would not exempt the Authorities from replying to the show cause notice issued by the Tribunal. Let the compliance report be submitted before the next date of hearing particularly in relation to Lajpat Nagar. We are also informed that temporary parking by Delhi Urban Shelter Board (DUSB) has not been operated as earlier agreed by the Board and directed by the Tribunal. We issue clear and unambiguous directions that the parking in that area shall be permitted forthwith. In the

	event of default the Director of the said Board shall be personally responsible rendering himself liable for an action in accordance with law under the orders of the Tribunal. The CPCB has also brought to our notice that it had inspected 15 old and 12 new buses of DTC that are plying on the roads of Delhi. Out of these, 12 new buses were found to be compliant with the prescribed emissions norms- while out of 15 old vehicles 9 were found compliant and 6 were found to be non-confirming to the prescribed standards. All the 6 buses mentioned in the report of CPCB shall forthwith be taken off the roads of Delhi. If these buses are found to be plying on the roads of Delhi the CEO of DTC shall be personally responsible for consequences for violating the Orders of the Tribunal. These buses however, would be subjected to the inspection by an Expert Team that would be appointed by the Tribunal and their operation would be permitted only after the Orders of the Tribunal. From the above scientific data it is clear that the presence of particulate matters and carbon in air needs to be checked. We have directed NCT Delhi to submit its view on various aspects to the Tribunal which has not been done so far. We direct the compliance to be made within one week from today without default. The Affidavit-cum-status Report shall be filed by the Secretary, NCT Delhi after holding a meeting chaired by the Chief Secretary of Delhi where all Departments, authorities, police should be directed to be present. This would deal with the compliance/non-compliance of each direction. We also direct the NCT Delhi to submit its view as to why all the Diesel (commercial or otherwise) vehicles plying in Delhi which are more than 10

	years old should not be taken off the roads and be not permitted from plying in the city. These views with scientific data should be submitted to the Tribunal, along with the exact number of Diesel vehicles which are more than 10 years old and their impact on ambient air quality. The direction in relation to Karol Bagh, Lajpat Nagar, South Ex. and Nehru Place shall be continued to be complied without default and delay, and a report shall be submitted by the Secretary even in that behalf. We make it clear that it should be brought before the Tribunal as to why the multi-level parking proposals which are pending for years before the Authority are not being implemented, reasons thereof and how they would be implemented in a time frame. Since some steps have been taken in Lajpat Nagar, we direct CPCB to take the ambient air quality samples at the same place where the samples were collected earlier on next Tuesday and Wednesday and submit analysis Report to the Tribunal. Comparative pre-existing data for the year 2014 should also be mentioned in that Report. The Applicant in Original Application No. 95 of 2014 is permitted to make a Power Point Presentation to the Secretary of MoEF, Chief Secretary Delhi, Chairman of CPCB and DPCC along with the other Sr. Most officers of the respective corporation, who shall remain present for the presentation. Let this be done on 7th April, 2015 on which date the case is also to be listed before the Tribunal. The State of UP, State of Haryana and State of Rajasthan all are directed to provide and fully cooperate with NCT Delhi for installation and effective operation of the

	weighing machines those already existing in their respective jurisdiction or are required to be installed under the Orders of the Tribunal. We reiterate our directions that overloaded vehicles would not be permitted to enter NCR Delhi. We also direct that in all the markets particularly Lajpat Nagar, Karol Bagh, South Ex., Chandani Chowk and other densely polluted markets the loading and unloading would not be allowed from 11:00 a.m. to 8:00 p.m. everyday. All persons filing M.A.'s shall pay requisite fees under the rules. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

**Vardhaman Kaushik Vs. Union of India & Ors.
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Sanjay Kulshrestha Vs. Union of India & Ors.
And
Supreme Court Women Lawyers Association Vs. Union of India & Ors.
And
Omesh Saigal Vs. Govt. Of NCT of Delhi & Ors.
And
Diya Kapur & Ors. Vs. Union of India & Ors.**

Present:

Applicant: Mr. Sanjay Upadhyay and Mr. Salik Shafiq, Advs.
Ms. Diya Kapur, Adv. And Petitioner in Person and Mr.
Nikhil Ratti Kapoor, Advs.

Respondent No. 1: Ms. Panchajanya Batra Singh, Advs. For MoEF & CC

Mr. Rajiv Bansal, Mr. Kush Sharma, Mr. Anurag Tripathi and Mr. Anirudh, Advs. for DDA
 Mr. Pritpal Singh Nijjar, Mr. Amit Kumar and Mr. Siju Thomas, Advs.
 Mr. Himanshu Kaushik, Adv.
 Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Advs., Delhi Police and Transport Deptt.
 Mr. Rajul Shrivastava, with Ms Ayushi Sharma, Advs. MPPCB
 Mr. Anurag Kumar, Adv. For Ms. Sakshi Popli, Adv. NDMC
 Mr, Guntur Prabhakar and Mr. Guntur Pramod Kumar, Advs. for State of A.P.
 Mr. Raman Yadav, Adv. for Ghaziabad Dev. Authority
 Mr. Atul Jha Adv. for State of Chattisgarh
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Mr. Ardhendumauli Kumar Prasad, Mr. Panshul Chandrachud and Mr. Jaydip Pati, Advs.
 Mr. Balendu Shekhar and Mr. Vivek Jaiswal, Advs. for EDMC
 Mr. Ram Sajivan Maurya, SMD and Mining Officer and Mr. Ajit Kumar Pandey District Gonda
 Mr. Pinky Anand, ASG with Mr. Balendu Shekhar, Mr. Rajesh Ranjan, Ms. Somya Rathore and Ms. Smidha Mehra, Advs. for MoRTH and Ministry of Heavy Industries, MoEF
 Mr. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Advs. for State of Nagaland
 Mr. Rudreshwar Singh and Mr. Gautam Singh, Advs.
 Ms. Puja Kalra, Adv. for NDMC, SDMC
 Ms. Bhavana Duhoon, Advs. for National Highways Authority of India
 Mr. Sanjeev Ralli with Mr. Trinayan Sonowal, Advs. for Intervener (Chandni Chowk Vyapar Mandal)
 Mr. Mahesh Dutt Tripathi, Adv. for Delhi cantonment Board
 Mr. Anil Soni, AAG and Mr. Naginder Beniwal, Advs. for State of Punjab
 Mr. Ashish Negi, Adv. for Ms. Richa Kapoor, Advs. for State of Punjab
 Mr. Suryanarayan Singh, Addl. AAG
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advs. for GNCTD,
 Mr. Narender Pal Singh with Dr. M.P. George and Mr. Dinesh Jindal, LO, DPCC
 Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., Central Pollution Control Board
 Mr. Mukesh Verma, Adv. for MPCB
 Mr. Vinay P. Singh, Adv. for Mercedes Benz.
 Mr. Amit Agarwal and Ms. Asha Basu, Adv. for West Bengal Pollution Control Board
 Ms. Puja Singh, Adv. for Hemantika Wahi, Adv. for State of Gujarat & GSPCB
 Mr. Hemant Jain, Ms. Usha Jain and Mr. K. Sunil, and Mr. Aviral Mittal, Advs.
 Mr. Sumit Kishore, Adv. for PNGRB
 Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
 Mr. Ravindra Kr. Kashyap and Mr. Gudipti G. Kashyap, Advs. for NOIDA and Greater NOIDA
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Gaurav Dubey, Adv. for K2 International
 Ms. Priyanka Sinha Advs for State of Jharkhand
 Mr. Anuj Sarma, Adv. For State of Goa
 Mr. Pradeep Misra and Mr. Daleep Dhyani, Advs.
 Mr. Sandeep Narain and Ms. Natasha Sarawat and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd. M. A. No. 172 of 2016
 Mr. Gopal Singh and Ms. Varsha Poddar, Advs.
 Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. Mr. Sandeep Yadav, Adv. for State of Haryana, HSPCB, MCF, MCG, HUDA
 Mr. Raj Kumar, Adv.

Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
Mr. Priyanaka Swami, Adv. for Nagar Nigam Ghaziabad
Mr. Sarurabh Rajpal, and Mr. Adhiraj Singh, Adv. for Rajasthan Pollution Control Board with Secretary Environment, Rajasthan Mr. R.K. Grover
Mr. Taruna A. Prasad, adv. for MoEF
Mr. R. Rakesh Sharma and Mr. M. Marutha Samy, Adv. for State of Tamil Nadu and TNPCB
Mr. V.K. Shukla, Adv. from State of M.P.
Mr. Hemant Jain with Ms. Usha Jain and Mr. K. Sunil and Mr. Amiral Mittal, Adv.
Mrs. Rani Chhabra and Ms. Priyanka Samy, Adv. In MA 358/2016 and 545/2016
Mr. Yatendra Sharma and Mr. Satyarat Sharma, adv. in M. A. No. 979/2016
Ms. Rasna Kaukat, adv. for Manushi Sangathan
Mr. Anoop Verma, Mr. Anil Soni, AAG with Mr. Naginder Benipal, Adv. in M. A. Nos. 983 & 984
Ms. Arushi Khandelwal, Adv. in M. A. No. 976/16
Mr. Ankit Verma, Adv. For State of Uttar Pradesh
Mr. Sunil K. Jain AOR and Mr. Punya Garg, adv. in M. A. No. 949/16
Mr. Darpan Wadhwa, and Mr. Arjun Syal, Adv. in M.A. 1078/1097/1080/1091/1092, 1134, 1135, 1136, 1137, 1138/2016, Mr. Yatender Sharma and Satyajeet 979/16
Ms. Aruna Mathur and Mr. Avneesh Arputham and Ms. Anuradha Arputham, Adv. for State of Sikkim
Mr. Soumyajit Pani, Adv. for State of Odisha
Mr. Vijay K. Sondhi and M.s. Cauveri Birbal Ms. Divya Sharma Ms. Avantika, Mr. Aranyak Pathak and Ms. Nayamat Sistani, Adv.
Mr. Sapam Biswajit Meiti and Mr. Naresh Kumar Gaur, Adv. for State of Manipur
Mr. Om Prakash, Adv. Ministry of Railways
Ms. Neha Makhija, Adv. for Mr. Gaurav Dubey, Adv. in MA Nos. 1082 & 1083
Mr. Pranav A. Kapur, Mr. Siju Thomas and Mr. Amit Kumar, Adv. in MA 783/2016
Mr. Vinod S. Bhardwaj, Adv.
Mr. A.R. Takkar, Mr. Ankur Sharma and Ms. Shriya Takkar, Adv.
Mr. Joydeep Mazumdar and Mr. Debojyoti Bhattacharya, Adv.
Mr. Nishe Rajen Shonker and Mr. Gajendra Khichi, Adv.
Mr. Manoj Mittal and Mr. Tahay Ayde, Adv.
Mr. Pragyan Sharma and Ms. Ananditi Kumar, Adv. For State of Mizoram
Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Adv. for Andaman & Nicobar Administration
Mr. Raman Yadav, Adv. for Ghaziabad Dev. Authority
Mr. Anand S. Pathak, Mr. Amit Kumar Mishra and Ms. Hima Lawrence, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 01 to 08 November 10, 2016 SS, AK & JG	Air quality in Delhi and its surrounding areas touched a new height in the last 10 days or so. It adversely affected the public health and persons of all generations without exception. The Ambient Air Quality was so hazardous that it affected the Eyes, ENT, upper Respiratory track and Lungs, particularly to school going

Item No. 01 to 08 November 10, 2016 SS, AK & JG	children, infants, office going persons and obviously the poor strata of society suffered endlessly. It is appropriate at this stage to refer to the Ambient Air Quality parameters that were recorded by the Central Pollution Control Board, Delhi Pollution Control Committee and the State Boards of the neighbouring States particularly Haryana, Uttar Pradesh, Punjab and Rajasthan. The standard norms for PM₁₀ is 100 µg/m³ and for PM_{2.5} 60 µg/m³. These values were found to be utterly violated and it recorded the value of PM₁₀ as 1690 µg/m³ and PM_{2.5} as 885 µg/m³ at Anand Vihar, Delhi. The average value recorded for Delhi for PM₁₀ were 950 µg/m³ and for PM_{2.5} 590 µg/m³ on 30th October, 2016. According to the NCT, Delhi on 31st October, 2016 recorded value of PM₁₀ 1684 µg/m³ and 1331 µg/m³, respectively. In Faridabad, even on 07th November, 2016 the recorded values were 414 µg/m³ and 985 µg/m³ respectively. In Ghaziabad and NOIDA on different dates, the value recorded for PM₁₀ was 720 µg/m³, 820 µg/m³ and 910 µg/m³ respectively. Even on Mandir Marg, New Delhi on 02nd November, 2016 the PM_{2.5} value recorded was 985 µg/m³. In district Alwar, Rajasthan the value recorded was 188 µg/m³ for PM₁₀. However, the Learned Counsel appearing for the State of Rajasthan submits that they do not have instruments available for measuring PM_{2.5}. In Bhiwari on 28th October, 2016 the value of PM₁₀ was recorded as 508 µg/m³. This data provided by different States shows that Ambient Air Quality in all these areas is hazardous to human health. In the light of the above statistics, the Tribunal was compelled to direct personal appearance of the concerned

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	Secretaries from each State and NCT, Delhi. All these officers appeared before the Tribunal and the matter was heard for three days continuously. One major disclosure that came to the forefront was that all concerned officers conceded that there was hardly any proper enforcement and implementation of the laws in force and the Judgments of the Hon'ble Supreme Court of India and this Tribunal. However, hardly any suggestions came forward from any quarters as to how the implementation should be made more effective and result oriented. There are seven major contributors of air pollution in all these States more particularly NCT, Delhi. These are:- 1. Construction activity and carriage of construction material. 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. All these contributory pollutants were deliberated upon at length before this Tribunal from time to time and detailed orders covering all the facets of air pollution were covered under different orders of the Tribunal. We may refer to the orders of the Tribunal dated 26th November, 2014, 04th December, 2014, 07th April, 2015, 10th April,

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	2015, 28th April, 2015, 18th May, 2015 and 11th December, 2015. All these orders/judgments dealt with the various sources of pollution except agriculture residue burning. This aspect was dealt with in the comprehensive judgment of the Tribunal in the case of Vikrant Kumar Tongad Vs. Environment Pollution (Prevention and Control) Authority & Ors in Execution Application No. 12 of 2016 In Original Application No. 118 of 2013 decided on 10th December, 2015. The judgment in the case of Vikrant Kumar Tongad Vs. Environment Pollution (Prevention and Control) Authority & Ors provided for precautionary, preventive as well as incentive oriented steps that the State of Punjab was required to take to ensure that this menace would be stopped at the earliest. The judgement provided for punitive action, and incentive to farmers to stop burning of Crop/Agriculture residue. The State of Punjab was called upon to provide incentive including the requisite machines as stated in the Judgment for extraction of agriculture residue from the field and its transportation to power generation plants, Cement Plants, Companies manufacturing Board from agriculture residue and from Bio-mass plants including reducing ethanol. We must notice at this stage itself that all the States particularly the State of Punjab has not been able to implement the Judgment in its true spirit and substance. It is conceded before us that the residue of nearly 70% of the agricultural land under paddy cultivation was put on fire during the period immediately after the harvesting. Similarly in Haryana there was burning of agricultural residue but may be at a little lower scale. This committee shall work specifically under the orders of the Tribunal.

Item No. 01 to 08 November 10, 2016 SS, AK & JG	The State of Uttar Pradesh and State of Rajasthan were no exception, though their contribution to the pollution was not greater than other States. This aspect needs to be examined and rigorous steps need to be taken by the respective States to ensure that there is no agriculture/crop burning any more in the future. We would be passing directions in that behalf separately. We may also notice here that the World Health Organisation (for short 'WHO') has published its report in September, 2016. They have published a list of 20 most polluted cities in the world. Out of these 10 cities are located in India. These are Delhi, heading the table, Gwalior, Patna, Kanpur, Allahabad, Alwar, Firozabad, Raipur, Ludhiana and Khanna. A study has also been conducted by I.I.T., Kanpur, on behalf of NCT, Delhi, and it is stated that out of the sources of pollution which we have already mentioned, above 22.70% has been contributed by the transport sector. It is estimated that 66 % of this pollution is resulting from diesel trucks, buses and diesel vehicles. The study also shows, along with other studies, that level of PM_{2.5} and PM₁₀ is almost 17 times of the prescribed limits and has serious adverse impact on the public health. The Ministry of Environment, Forest and Climate Change has also brought out the air quality index and it has termed 431 µg/m³ PM₁₀ as 'severe pollution' as stated by the Learned ASG. This shows that the 'severe category' carved out by Ministry of Environment, Forest and Climate Change has been left much behind as the value of PM₁₀ has touched the value of 1990 µg/m³ in Delhi. This is the extent and kind of pollution that the citizens of Delhi are exposed to.

Item No. 01 to 08 November 10, 2016 SS, AK & JG	The basic and fundamental question that arises for consideration of this Tribunal is whether the State Government and more particularly NCT, Delhi can provide any justification acceptable scientifically in law as to why the people of Delhi should be exposed to such severe pollution and have endlessly suffered from one disease or the other. This equally applies to other States as well. The Hon'ble Supreme Court of India decades back had declared that Article 21 of Constitution of India has to be expanded so as to include right to decent and clean environment as a fundamental right. Fundamental right is the right provided by the Constitution to the citizens and it could claim its enforcement to which the State can hardly raise a defense particularly of its inability to enforce laws on an environmental front. We must say that since past three days not even a single point has been raised before the Tribunal which could even be remotely comprehended and be a reasonable ground on the part of these authorities for not protecting environment in relation to this zone of the country and particularly in NCT, Delhi. The main plank of the officers who were present in person along with their learned counsel of respective States had only expressed their inability to implement. This ought to be the last submission that could be made in response to an action for enforcement of fundamental rights. We find no merit in any of the submissions advanced to express inability to enforce the law. The judgment of the Hon'ble Supreme Court of India and the Tribunal particularly when they are specific, unambiguous and have provided complete mechanism for enforcement of judgments and orders. The State owes a

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	constitutional duty to protect public health and to provide at least clean air for its citizens to breathe. The principle of inter-generational equity does not support any development even if it is carried under the doctrine of sustainable development where the next generation would be exposed to the worst environmental and ecological environment. The children of today have a right to breathe clean air and play in the play ground rather than be ordered to be shut down in their respective homes. The present generation in any field including in the field of Governance owes a duty in law and on morality to provide cleaner and better earth to its next generation. Times have come where all concerned authorities irrespective of their stature must show concern to improve the environment and Ambient Air Quality in these States and more particularly in the NCT, Delhi. As we have already noticed, the Ambient Air Quality in these States and particularly in NCT, Delhi/NCR, Delhi have reached the limit which are unimaginable, unacceptable and are a clear indication of negligence on the part of the concerned authority to the disadvantage of the human health of the citizens. The prescribed limit of PM₁₀ and PM_{2.5} is 100 µg/m³ and 60 µg/m³ respectively have been grossly exceeded. The experts appearing before us submit that the daily average of these values is even lower that is 60 µg/m³ and 40 µg/m³ respectively. If the daily average is to be taken into consideration then the violation is nearly 20 times in excess. Viewed from any rational angle, this is disastrous. It may be appropriate that the concerned authoirities including the Central Pollution Control Board has located

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	at the air pollution in somewhat different way. It appears that to attain the prescribed standards as of now would be a dream difficult to achieve as of today. The normal pollution in contra distinction to severe or Environmental Emergency has to be examined and controlled by taking different and distinct measures, depending upon the situation e.g. where the Particulate Matters values are in excess of 431 µg/m³ in case of PM₁₀ and 251 µg/m³ in the case of PM_{2.5}. Therefore, the pollution has to be treated as severe. To put it in other words, emergent measures have to be taken to control the air pollution in any of these States particularly in NCT, Delhi, once it crosses the above limits. These limits have been suggested by the expert appearing before the Tribunal with reference to the Air Quality Index of NCT, Delhi. Normal steps to be taken to prevent and control air pollution and providing cleaner air quality to the people of these States and Delhi. Even if they are below the above standards, but once they cross the prescribed standards, then it must be the duty of the States and NCT, Delhi to take emergent measures which would even include the providing of such emergent preventive measures that may require enforceability of highest degree in the interest of public health and environment. In the light of the above discussion, now we proceed to record the directions that has to be passed in the interest of environment, public health and tranquility of Ambient Air Quality and to implement the fundamental right that is granted to the citizens of India. All the judgments and orders passed by the Tribunal dated 26th November, 2014, 04th December, 2014, 07th April, 2015,

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	10th April, 2015, 18th May, 2015, 28th April, 2015 and 11th December, 2015 in the of Vardhaman Kaushik Vs. Union of India & Ors. In Original Application No. 21/2014 and 10th December, 2015 in the case of Vikrant Kumar Tongad Vs. Environment Pollution (Prevention Control) Authority & Ors. shall be applicable, mutatis mutandis, to the orders passed in the case of respective States and NCT, Delhi. All the States of Punjab, Haryana, Uttar Pradesh, Rajasthan and NCT, Delhi as already noticed, these directions and orders provided for all preventive, precautionary, punitive and enforceable directions which would protect and ensure that the sources of pollution as afore-indicated do not cause air pollution and bring the Ambient Air Quality to the values as has been seen in the last 10 days in the States and particularly NCT, Delhi. All the concerned Officers, Authorities, Legal Authorities, Pollution Control Boards and other Corporations etc. would be responsible for proper implementation and enforcement of the directions contained in these orders in relation to different sources of pollution. We constitute the following centralized monitoring Committee and State Monitoring Committee for ensuring proper implementation of the judgments and the laws relating to prevention and control of air pollution :- 1. The Centralised Monitoring Committee shall consist of:- a. Secretary, Ministry of Environment, Forest and Climate Change (Chairman). b. Chief Secretaries of the States of Punjab,

Item No. 01 to 08 November 10, 2016 SS, AK & JG	Haryana, Uttar Pradesh, Rajasthan and NCT, Delhi. c. Member Secretary of the Central Pollution Control Board and the Member Secretaries of the State Pollution Control Boards. d. Professor Mukesh Khare from I.I.T., Delhi. e. Member Secretary of each State Pollution Boards would be at liberty to bring one expert with him, if they so desire. f. Additional Director General of Health Services to be nominated by the Union Secretary, Health. This committee would meet once in two months and by rotation in all the States including NCT, Delhi, where the first meeting would be held. a. This Committee would supervise implementation of all the directions contained in the judgment of the Tribunal in relation to various sources of pollution, particularly agriculture residue burning. b. It shall also provide guidelines or directions to the State Committee for prevention and control of air pollution in relation to all its aspects, not limiting to the directions contained hereinabove and in the orders referred above. c. The Committee shall take implementation Status Report from the State Committees, and if necessary, get it verified through

Item No. 01 to 08 November 10, 2016 SS, AK & JG	independent sources and then submit its final report after every three months to the Tribunal. The Committee will also record its satisfaction or otherwise with regard to implementation and enforcement of the directions issued. d. In the event the Committee finds that any officer belonging to any cadre, authority, Pollution Control Board or even by independent statutory body has failed to implement the directions, orders, judgments and the law in relation to control of air pollution, it shall recommend initiation of disciplinary proceedings against that official without hesitation or reservation. We make it clear that the officer against whom such a Committee recommends disciplinary, should be independent of the proceeding that this Tribunal may initiate against such defaulting officials/officer of any State/NCT, Delhi. If technical experts of the Committee make any suggestion and the same is found relevant, then the committee shall record and bring it to the notice of the Tribunal. <u>State Level Committee.</u> Following shall be the composition of State Level Committees: 1. Chief Secretary as the Chairperson,

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	2. Secretary Environment, 3. Secretary Urban Development and Housing, 4. Member Secretary of the Pollution Control Board of the States, 5. Chairman of the Development Authority of the District/State, 6. Secretary of the Department responsible for Developing Agency and Corporations of the State, 7. Director of Medical Services who is a professional shall be the Member of the Committee, Commissioner/Additional DG of Delhi Police of NCT of Delhi and similar officers from the other States. This Committee shall be responsible for enforcement of the directions/orders/judgments and the law in relation to prevention and control of air pollution more particularly judgment afore-referred. It will be the duty of this Committee to verify that the directions are actually implemented at the ground level and would not leave the things on mere paper. This Committee shall prepare action plan in consonance with the advance circular the same and ensure their implementation. The Committee shall also publicise requisite matter through media or otherwise, particularly in relation to burning of agriculture residue. It will inform the farmers of the benefits and the incentives that are available to them in consonance with the orders afore-referred for not burning of agriculture residue. It should be informed to them that it is not a mere liability but could become useable asset and bring

Item No. 01 to 08 November 10, 2016 SS, AK & JG	financial benefit to them. We also direct that the concerned State/NCT, Delhi and the State Committees shall constitute a special task force to ensure that there is no burning of waste of any kind, roads are mechanically cleaned and there is no undue traffic congestion in the city particularly during the period of environmental emergency. The Chairman of the Centralised as well as State Committee shall be at liberty to invite or summon any Officer/Expert/ Official from any other department or Ministry or Research Organisation for carrying on the business and object of the Committee more effectively. If invited no officer/Expert of any department or Ministry or Research Organisation would avoid to appear before the Committee and provide its required input. The state level committee shall hold its meeting every month. The First meeting of the centralised Committee Led by Secretary Environment would be held on 17th November, 2016 while that of the State Level Committees would be held on 24th November, 2016. The State level committee shall submit the report to the centralised committee at least three days in advance to the date of the meeting of that committee. <u>Independent Clause</u> The most important aspect in relation to which we require to issue directions is the situation of the States

Item No. 01 to 08 November 10, 2016 SS, AK & JG	and particularly NCT of Delhi as faced in the last 10 days where the air pollution enters an alarming situation that is severe pollution. Then immediate steps are required to be taken as an ‘environmental emergency’. We have already noticed on the advice of experts that where P.M₁₀ exceeds the value of 431µ/M³ and P.M_{2.5} 251 Microgram Per Cubic Meter, then it is a situation of ‘severe pollution’. If we exceed those of values reached 500 or 300 respectively then it is a case of ‘environmental emergency’. The State owes a Constitutional Statutory and public law obligation to protect the Air Pollution and provide to its citizen at least breathable air if not absolute clean air to breathe. If the situation reaches that level of these States and particularly NCT of Delhi shall take besides all other preventive and controlling measures of pollution as indicated in the orders/judgments and law particularly orders afore-referred inter-alia but more particularly it would take following measures without delay and default. 1. It shall ensure that the water is sprinkled through helicopters all over the city and other areas where the values are found to be in excess of the above standards. 2. It shall immediately provide happy seeders in the agricultural fields to ensure removal of agricultural residue and its utilization at the concerned quarters including Power Generation Plants, Bio-Mass Plants, and Cement plants, Industries manufacturing Building and allied products. 3. The State Government and NCT of Delhi shall issue

Item No. 01 to 08 November 10, 2016 SS, AK & JG	the order to all such companies, plants and public undertakings to discharge their Corporate Social responsibility and collect the agriculture residue from the field of farmers while providing them with money as consideration for lifting of the agricultural residue. 4. All the stone crusher working in the area shall be directed to shutdown forthwith. 5. All the Power Generation Plants, Brick kiln, Hot Mix Plant, if found to be emitting in excess of prescribed standards, should be ordered to be shut down temporarily and till they take remedial measures and bring the standards within particular limit. Thermal plants, Waste to Energy Plants also may be shut down only if they violate the parameters or otherwise. 6. All the construction, demolition activities and transportation of construction material shall be stopped temporarily till the ambient air quality standards are brought down below the severe pollution standards afore-stated. 7. The authority would ensure that the DG sets if in operation anywhere should be adhering to the prescribed norms. In the event of default they should be not only shut down but even confiscated. <u>General Directions.</u> 1. The committee afore-referred shall prepare a complete action plan for environmental emergency as well as prevention and control of air pollution, wherever parameters are found to

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	be in excess of prescribed standards. 2. This action plan should be strictly in consonance with the judgement and orders afore-referred. Of course the Committees are at liberty to provide any additional measures that are required to be taken. 3. The action plan so prepared shall be submitted to the Central Committee which will approve the same and fix the period for its implementation in regular course of business of the concerned authority, Corporations, etc. 4. Each of the states shall in its very first meeting notify one district which has major land use as agriculture. This district could be taken as a model district for implementation of the direction and orders in relation to complete stoppage of burning of agriculture/crop residue. The Committee will ensure that all the incentive in terms of the judgement are provided with utmost priority. 5. There should be all preventive, precautionary and effective steps taken well in advance to the next harvest season. 6. It shall then submit a specific report upon field inspection whether there has been complete extinguishment of the practice of crop burning in that area or not, and the reasons thereof. Then it shall implement the scheme in rest of the States in a gradual manner. 7. All the States Governments, Public Authorities and Development Agencies shall introduce

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	vacuum cleaning machines for removal of dust and waste from the roads in a gradual manner. Cleaning of dust manually should be stopped. Mechanical cleaning of the roads should be introduced. Manual cleaning of dust only helps in re-generation of pollution and does not effectively cause cleaning of roads or air either. 8. Police Authorities and the local bodies should ensure that wherever mechanised cleaning of dust is introduced, at the relevant time the vehicles ought not to be parked on either side of the roads. 9. It should be ensured that there should be no leaves, municipal solid waste, plastic, agriculture residue, oil and oil products are burnt in open or otherwise. Strict punitive action should be taken in accordance with the orders of the Tribunal, if any person is found to be violating these directions and orders passed by the Tribunal. 10. 50% of the staff of the Corporations, Committees, Development Agencies and the concerned department of the Government should be on field inspection to ensure proper and effective implementation of the directions. The staff on field duty shall submit a report to the Officer in-charge, who would then submit a report to the State Committee, bring to its notice whether the implementation and effectiveness of the orders and directions by the said authorities was satisfactory or not.

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	11. The Traffic Police, PWD and all public authorities shall ensure that there is free flow of traffic and there are no undue jams on the traffic lights or otherwise. 12. The person who violates the directions of the Tribunal in regard to vehicular pollution should be strictly made liable in terms of the judgement of the Tribunal for payment of environmental compensation. This compensation could be recovered by the concerned department and representative of the authorities including the Police. 13. We have already noticed in our judgement that on the basis of the data available, nearly three lakhs litres of petrol is burnt in NCT of Delhi everyday by stationery vehicles in the traffic jam or the traffic light. The Committee shall consider this aspect with utmost priority and submit its suggestion to the Tribunal for orders. 14. We direct all the State Governments, NCT of Delhi also to issue guidelines with regard to manufacturing, sale and burning of crackers in the jurisdiction of the respective States/NCT of Delhi. Such direction must be taken into consideration that the crackers if permitted are of the nature which would generate least smoke and produce least noise. It should be within the prescribed parameters. 15. All authorities concerned should create social awareness particularly in schools and colleges

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	as to the dis-advantage and adverse impact on public health of indiscriminate burning of crackers on different festive seasons. 16. We also direct the State Governments and NCT of Delhi particularly the State of Punjab to consider withdrawal of incentive provided to the agriculturists who are found to be defaulting and burning agriculture/crop residue. We take note of the fact that the Government of Punjab has already issued Notification dated 22nd October, 2013, wherein burning of agriculture/crop residue has been prohibited. 17. The order of the Tribunal in relation to all diesel vehicles more than 10 years of age and petrol vehicles which are more than 15 years of age shall not ply on the roads of NCT of Delhi, shall be enforced rigorously. The other States are directed to take decision, in relation particularly to diesel vehicles which are of more than 10 years of age. 18. We direct NCT of Delhi, DDA, all Corporations and PWD to ensure that all its parks, flyovers, roads around the government building, there is greenery and study has been conducted and found that if greenery is spread over all the flyovers and roads of NCT of Delhi, it will help in increasing of oxygen by 20%. It will help a large number of people to breathe fresh air. Efforts should be made to cover open land with green grass.

Item No. 01 to 08 November 10, 2016 SS, AK & JG	19. All the concerned authorities shall ensure that the waste dumping sites are not put on fire, under any circumstances. 20. We grant liberty to all the government departments, PWD etc to bring before the Tribunal offenders or defaulting persons with complete details. If such list is filed, the Tribunal shall issue notice to them for payment of environmental compensation and for passing of such other punitive orders as may be necessary in the facts and circumstances of the case. 21. The Committee would also recommend the steps that various authorities are required to take for providing health care and immediate treatment to the public who suffer from effects of air pollution. 22. All the amounts collected under the orders of the Tribunal for environmental compensation should be utilized only for the purpose of prevention and control of air and water pollution in NCT of Delhi and the concerned States subject to the orders of the Tribunal. The copy of this order be furnished by dasti. List the matter for further directions on 9th January, 2017. List all the miscellaneous applications of 16th November, 2016 at 3 PM. ,CP (Swatanter Kumar)

	Item No. 01 to 08 November 10, 2016 SS, AK & JG	,JM (Dr. Jawad Rahim) ,JM (Raghuvendra S. Rathore) ,EM (Ranjan Chatterjee)



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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

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Ms. Ritwick Nanda, Adv
Mr. S.M. Ali, Special Sec., Dr. Anil Kumar, Director, Mr.
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Mr. Amit Dubey, Mr. Karan Cjawla Adv.
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MR. Ankit Tyagi, Adv.
Mr. Udaibir Singh Kochar Adv.
Mr. Debarshi Bhuyan Adv
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal and Ms.
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Gorver Sec. Environment Rajsastha

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 Mr. Soumyajit Pani, Adv with Mr. Chittaranjan Singh, Adv.
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 Mr. Raman Yadav and Ms. Varnita Rastogi, Adv. for GDA
 Mr. Nikhil Singhav, Ms. Nikita Pandey and Mr. Mohit Seth and Ms. Kanak Bose, Adv.
 Ms. Monica Lakhanpal, Applicant in person and Mr. Vaibhav Gaggar and Ms. Sumedha Darg, Adv.
 Mr. Aman Sarma and Mr. S.S. Rebello, Adv.
 Mr. Amit Agarwal, Ms. Asha Basu Adv. for WBPCB
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 Mr. Shuvodeep Roy Adv. for State of Assam
 Mr. V. K. Shukla and Ms. Vijay Laxmi, Adv. for State of M.P.
 Mr. Pradeep Misra, Mr. Daleep Dhyani, Adv. for UPPCB
 Mr. Sumit Kishore, Adv. for PNGRB
 Ms. Priyanka Sinha, Ms. Ajita Tandon Adv.
 Mr. Rajul Shrivastava, Adv. for MPPCB
 Mr. Kshitiz Ahuja, Adv.
 Mr. Gaurav Dubey, Adv.
 Mr. Ajay Marwah for HPPCB
 Mr. D. K. Thakur, AAG for State of Himachal Pradesh
 Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv for UPPCB
 Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Adv. for DTC
 Mr. Devraj Ashok, Adv.
 Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Adv.
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 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
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 Mr. Atul Jha, Adv. for State of Chhattisgarh
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 Mr. A.K. Prasad and Mr. Shashank Saxena, Adv. for MoPNG
 Mr. Ravindra Kumar, Adv. for NOIDA & Greater NOIDA
 Ms. Sakshi Popli, Adv
 Mr. Rakesh Sharma Mr. V. Mowli, Adv. for State of TN and TNPCB
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 Mr. Anil Shrivastav, and Ms. Sujaya Bardhan and Mr. Rituraj Biswas, Adv.
 Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA for Central Pollution Control Board
 Mr. Mukesh Verma, Adv. for MPCB
 Ms. Sugandha Batra, Adv.
 Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. R.S. Suri, Sr. Adv. and Mr. Varun Khanna, Adv.
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Adv. for GNCTD
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 Mr. Tarveen Singh Nanda, Mr. Anchit Sharma and Mr. Satumita Ghosh, for Delhi Cantonment Board

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 Mr. Manoj Kumar Das adv.
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Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
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Mr. Ajit Sharma and Mr. Adnan Siddiqui, Advs.
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Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Mr. Satamita Ghosh, Advs.
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Mr. Anil Grover, AAG, Mr. Rahul Khurana, Adv. with S. Narayan, Member, Secretary, HSPCB
Mr. Mukul Singh, Adv. for MoEF.
Mr. Amit Agrawal, Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than 61 $\mu\text{g}/\text{m}^3$ and less than 90 $\mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than 101 $\mu\text{g}/\text{m}^3$ and less than 250 $\mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is 100 $\mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is 60 $\mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

	Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

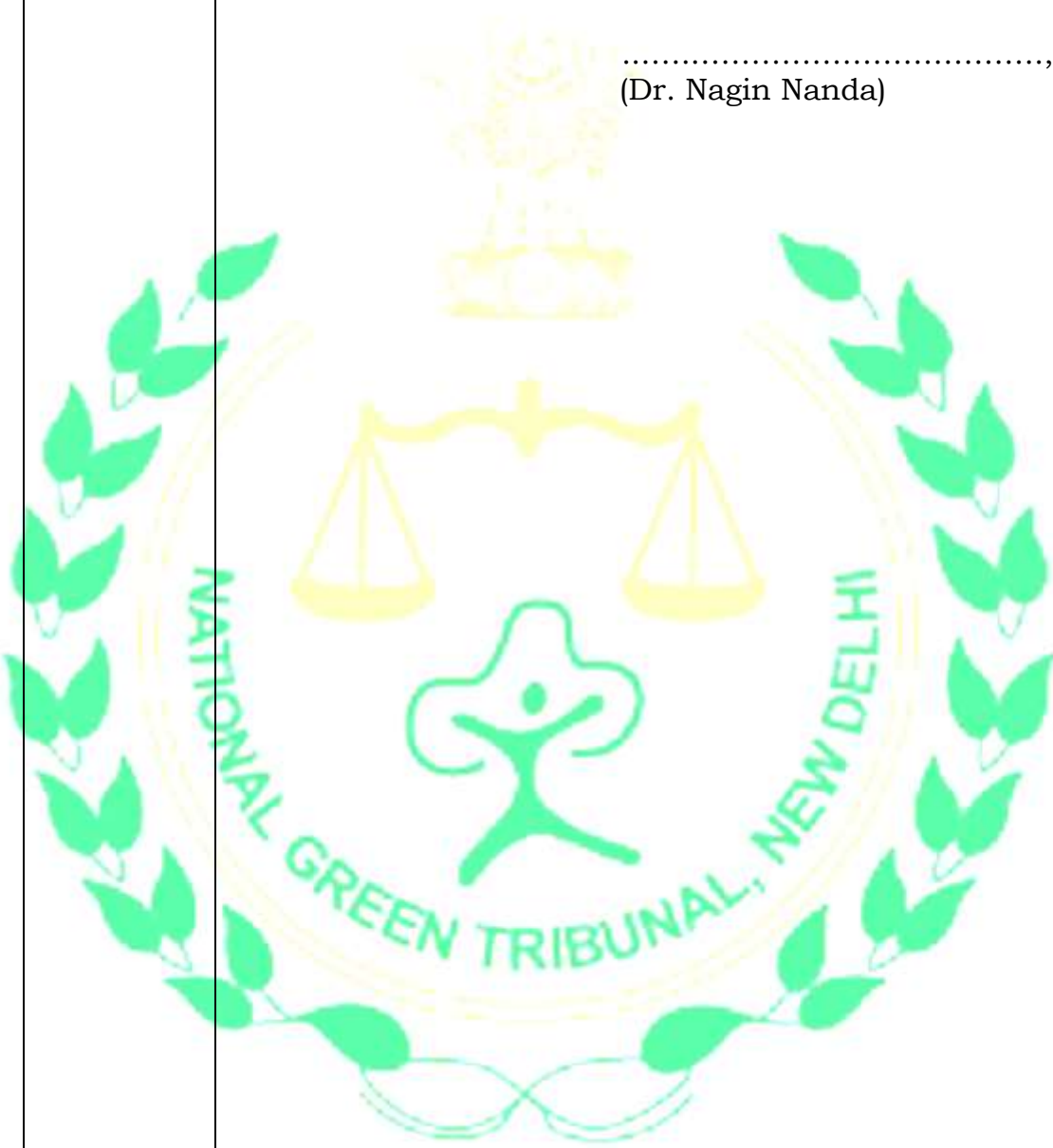
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM_{10} exceeds $1000 \mu\text{g}/\text{m}^3$ and $PM_{2.5}$ exceeds $600 \mu\text{g}/\text{m}^3$ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

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

(M.A. NO. 284/2015, M.A. NO. 755/2016, M.A. NO. 756/2016, M.A. NO. 766/2016, M.A. NO. 847/2016, M.A. NO. 848/2016, M.A. NO. 924/2016, M.A. NO. 892/2016, M.A. NO. 974/2016, NO. 979 /2016, M.A. NO. 983/2016, M.A. NO. 984/2016, M.A. NO. 967/2016, M.A. NO. 986/2016 & M.A. NO. 1050 /2016)

In

Original Application No. 21/2014

AND

M.A. NO. 156/2016

IN

Original Application No.21 OF 2014

AND

Original Application No. 21/2014

(Only Notices)

AND

Original Application No. 21/2014

(M.A. NO. 172/2016, M.A. NO. 567/2016, M.A. NO. 690/2016, M.A. NO. 783/2016, M.A. NO. 949/2016, M.A. NO. 950/2016, M.A. NO. 1037/2016, M.A. NO. 1038/2016, M.A. NO. 1078/2016, M.A. NO. 1079/2016, M.A. NO. 1080/2016, M.A. NO. 1091/2016, M.A. NO. 1092/2016, M.A. NO. 1082/2016, M.A. NO. 1083/2016, M.A. NO. 1142/2016, M.A. NO. 1134/2016, M.A. NO. 1135/2016, M.A. NO. 1136/2016, M.A. NO. 1137/2016, M.A. NO. 1138/2016, M.A. NO. 1155/2016, M.A. NO. 1162/2016, M.A. NO. 1180/2016, M.A. NO. 1184/2016, M.A. NO. 1185/2016, M.A. NO. 1186/2016, M.A. NO. 1187/2016, M.A. NO. 1188/2016, M.A. NO. 1189/2016, M.A. NO. 1190/2016, M.A. NO. 1191/2016, M.A. NO. 1192/2016, M.A. NO. 1209/2016 & M.A. NO. 1210/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

And

Original Application No. 181/2013

(M.A. No. 824/2015)

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Omesh Saigal Vs. Govt. of NCT of Delhi & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Present: **Applicant :** Ms. Divya Sharma and Mr. Sanjay Upadhyay, Advs.

Respondent No. 2 & 4 Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC

Respondent No. 5 & 6 Mr. Balendu Shekhar, Advs. For EDMC.
Ms. Panchajanya Batra Singh, Adv. for Ministry of Environment & Forest, & CC
Mr. Anil Soni, AAG for State of Punjab and Mr. Naginder Benipal, Advs.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam
Ms. Taruna A. Prasad, Adv. for MoEF
Mr. Rajiv Bansal, Mr. Kush Sharma, Mr. Anurag Tripathi and Mr. Anirudh Chadha, Advs. (DDA)
Ms. Nishe Rajen Shonker and Mr. Gajendra Khichi, Adv. for State of Kerala and Mr. Joggy Scaria, Adv.
Mr. Sanjeev Ralli and Mr. Ravin Kapur, Advs. for Chandni Chowk Sarv Vyapar Mandal - Intervener
Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. for NOIDA & Greater NOIDA.
Mr. Anurag Kumar, Adv. for Ms. Sakshi Popli, Adv. for NDMC
Mr. D.P. Singh, Ms. Sonam Gupta and Ms. Ishita Jain, Advs.
Mr. A.K. Prasad and Mr. Panshul Chandra, Advs. For MoUD/PNG & Respondent No.2-6
Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv. For State of Bihar and BSPCB
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Gaurav Dubey, Adv. for K-2
Mr. Sarthak Chaturvedi, and Mr. Shubham Jaiswal, Advs. for Andman and Nicobar Admin
Mr. Sarthak Chaturved, Mr. Rohit Pandey and Mr. D.N. Tripathi, Adv. for Andaman Nicobar Administration
Mr. Rajul Shrivastav, Advs. For MPPCB
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA, CPCB
Mr. Mukesh Verma, Advs. for MPCB & State
Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Ashish Rana, Adv.
Ms. Arushi Khandelwa, Adv. for Bio diesel Association of India
Mr. Anoop Verma, Adv.
Mr. Narayan Krishan and Ms. Rasna Kalkat, Advs.
Mr. Natasha Sahrawat and Ms. Khushboo Bari, Advs.
Mr. Yatendra Sharma, Mr. Sachin Sharma and Mr. Satyavrat Sharma, Adv.

Mr. Edward Belho, Mr. K. Luikang Michael and Ms. Elix Gangmei, Advs. For State of Nagaland and Pollution Control Board

Mr. Shiv Mangal Sharma, Adv. with Mr. Adhiraj Singh and Mr. Saurabh Rajpal, Advs.

Ms. M.S. Priyanka Sinha, Adv. for State of Jharkhand

Mr. Atul Jha, Adv. For State of Chhattisgarh

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Mr. Sandep Yadav, Mr. Saurabh Sachdeva and Mr. Arun Tewatia, Advs., Advs. for Haryana, HSPCB, MCF, MCG & HUDA

Mr. Sanjeev Kr. Sharma, Mr. Jeetendar Kr. Jha and Ms. Roopani Rai, Advs.

Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, Advs. For State of Sikkim & Pollution Control Board

Mr. Pradeep Misra and Mr. Daleep Kumar Dhyani, Advs. for UPPCB

Mrs. Rani Chhabra and Ms. Priyanka Sony, Advs.

Mr. Darpan Wadhwa and Mr. Sarad K. Sunny, Adv.

Mr. Abhishek Yadav, Adv. for State of U.P.

Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar, Advs. For State of Andhra Pradesh

Mr. Raman Yadav, Adv. for Ghaziabad Development Authority

Ms. Alpana Poddar, Adv. with Mr. Bhupender Kumar, LA, CPCB

Mr. R. Rakesh Sharma, Adv. for State of Tamil Nadu & TNPCB and Mr. Marutha Samy, Adv.

Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Advs. for PWD, Transport Deptt. and Delhi Police with Mr. Dinesh Kr. Gupta DCP Traffic

Mr. Abhishek Atrey, Adv. For MoEF & CC

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv. For State of West Bengal

Ms. Puja Kalra, Adv. For SDMC and NDMC

Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.

Mr. Balendu Shekhar, Advs. For MoRTH and Ministry of Heavy Industries and Highway

Mr. Balendu Shekhar, Advs. For Ministry of Road & Transport and EDMC

Mr. Aman Shukla and Mr. Santosh Rebello, Adv. for State of Goa & PCB

Mr. Devraj Ashok, Adv. for State of Karanataka & KSPCB

Mr. V.K. Shukla, Adv. for State of M.P.

Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advs. for Transport Deptt. & GNCTD

Mr. Sumit Kishore, Adv. for PNGRB

	Date and Remarks	Orders of the Tribunal
	Item No. 19 to 27 November, 28, 2016 ss	We have heard the Learned Counsel appearing for the Ministries, NCT, Delhi, State of Haryana, State of Pubjab, State of Rajasthan, State of Uttar Pradesh, DDA and Delhi Police and all other learned counsel. Vide order dated 07th April, 2015 and other orders where various directions have been passed with regards to prohibition for plying of vehicles diesel older than 10 years and petrol older than 15 years, Delhi Police had made some attempt to comply with the orders. However, due to non-availability of space and other difficulties faced, they were not able to keep the vehicles seized. Various other directions were passed by the Tribunal to ensure reduction of pollution of ambient air in Delhi resulting from vehicular pollution. At the cost of repetition and to put the matters beyond controversy we further issue the following directions:- 1. The Ministry of Heavy Industries has assured the Tribunal that it was in the process of framing policy for scrapping of old vehicles in consonance with the directions of the Tribunal. This policy was to provide not only methodology for scrapping of vehicles but even incentives for that purpose to car owners. Unfortunately, nearly a year has gone now but the Ministry has not produced any policy to that effect before the Tribunal. According to the Learned Counsel, matter has been taken up with the Finance Ministry. We direct that the Learned Counsel appearing for the Ministry of Heavy Industry would take clear instructions in regard to the entire policy

	Item No. 19 to 27 November, 28, 2016 ss	as well as implementation thereof before the next date of hearing. 2. All the State Government i.e. State of Punjab, State of Haryana, State of Uttar Pradesh, State of Rajasthan and the concerned State Secretaries would discuss with the Chief Secretary of Delhi to identify the land for parking the seized vehicles older than prescribed age immediately on the border of NCR and NCT, Delhi. 3. This meeting should take place immediately and the Learned Counsel appearing for the respective States and NCT, Delhi would place the result/minutes of the meeting before the Tribunal by the next date of hearing. The Learned Counsel appearing for the DDA has submitted that as of now and after deliberation with all concerned stakeholders, two sites have been identified at Narela and Rohini which can be temporarily provided to Delhi Police for parking of such vehicles that are seized or are otherwise required to be parked for offending the laws and particularly upon the orders of the Tribunal. We, however make it clear that giving of such site of Delhi Police would be purely on temporary basis. Delhi Police would not raise any permanent structure on the land in question and they would pay amount to DDA as per the policy of the DDA. As far as the first two conditions are concerned, these are ex-facie reasonable and even necessary. However, since no title in the property is being transferred to the Delhi Police, there is no question of paying any charges to DDA for transfer

	Item No. 19 to 27 November, 28, 2016 ss	of such land whether under the Land Revenue Act or otherwise. However, it would be appropriate that Delhi Police Pay charges to DDA for parking on per car basis. 4. We clarify that vehicles plying on the roads or otherwise found to be polluting are not challaned merely under the Motor Vehicles Act but also under the provisions of the Environment (Protection) Act, 1986 and upon orders of National Green Tribunal Act, 2010. The vehicles seized by the Police for violation of the directions of the Tribunal are those not seized in terms of the Motor Vehicle Act but specific orders of the Tribunal. They cannot be released and ought not to be released unless they pay environmental compensation as well as carriage and parking charges demanded by Delhi Police. 5. The Environmental Compensation has already been identified as Rs. 5,000/- for each violation. Besides this, the crane charges would be declared by the Delhi Police within a week from today and put up on Notice Board including the parking charges of the land in question. DDA would be entitled 50% of the parking share from Delhi Police. 6. We reiterate that these are not only the offences under the Motor Vehicles Act and we do hope that all concerned would take note thereof that vehicles are being seized under the provisions of the above two said Acts and under the orders of the National Green Tribunal in relation to environmental offences/violation. 7. We do not appreciate that neither the corporation

	Item No. 19 to 27 November, 28, 2016 ss	and nor Delhi Police so far has lifted a single vehicle from those which are not even pliable or are standing on rims instead of tyres, have no engine or otherwise in violation of the orders of the Tribunal and are left parked on the public roads or public places, thereby crating congetion. 8. Let the concerned Corporation and Delhi Police jointly carry out action plan and ensure that all such vehicles are lifted to avoid traffic congestion or otherwise for recovery of environmental compensation, as they gather nothing except dust which gets blown into the air thereby polluting the ambient air of NCT, Delhi. 9. The Delhi Police as well as all other Police of the concerned States and Corporations would ensure that all the vehicles non-destined for Delhi and are required to take diverted routes, do not enter Delhi and ply in strict compliance of the prescribed standards and do not violate the directions of the Tribunal. In the event of violation, appropriate action shall be taken and these vehicles would be parked at the border places before their entry into NCT, Delhi that would be identified in terms of the above order. 10. All Concerned Authorities shall ensure that deregistration of the vehicles which are plying on the road of Delhi in violation to the order of the Tribunal should be given effect to immediately and report be submitted to the Tribunal. 11. The DDA, Police Authorities and the Corporations will hold a meeting within this week and identify

	Item No. 19 to 27 November, 28, 2016 ss	other sites which can be temporarily provided as short term measure to Police or can be transferred by DDA to sort out problem of parking of vehicles as well as free flow of traffic. <u>M.A. No. 974 of 2016</u> Both these applications have been filed on behalf of M/s. Metro Waste Handling Private Limited praying that the eight vehicles bearing chassis numbers respectively as follows: 1. MB1CTCHD3GEWW0746 2. MB1CTCHD7GEWW1124 3. MB1CTCHD9GEWW1125 4. MB1CTCHDXGEBV1238 5. MAT716013G2H19105 6. MAT716013G2H18911 7. MB1A3CHD9GRBP1495 8. MB1CTCHD8GEBV1237 be permitted to be registered in Delhi. All the eight vehicles proposed to be registered now are BS-IV compliant. Six vehicles therefrom are to be operated in South Delhi Municipal Corporation as being replacement of old vehicles which the company has already obtained NOC from the Transport Department for their transfer to Gorakhpur area. In view of the above we dispose of both these applications with the following directions:- 1. The six vehicles which have to operate in South Delhi Municipal Corporation area would be registered by the Transport Department only when the NOC for transfer of old vehicles as aforesaid and

Item No. 19 to 27 November, 28, 2016 ss	secondly, its certification at Gorakhpur is also submitted before them. 2. The Managing Director of the Company will file a personal affidavit that the said old six vehicles are transferred and being used at Gorakhpur and and will not be brought back to Delhi under any circumstances. In fact, steps would be taken for condemnation in accordance with law; and all these vehicles being registered in Delhi are BS-IV compliant. The affidavit of the Managing Director will also state that the company does not own any diesel vehicle other than the said old six vehicles which are more than 10 years old in Delhi being moved out of Delhi. The Affidavit would be filed before the Registrar Transport Department as well as before the NGT Tribunal. We also permit registration of two other vehicles to be plied in the area of NDMC and one Hue Loader as described above. With the above directions, M.A. No. 974 of 2016 and M.A. No. 1180 of 2016 stand disposed of. No order as to cost. <u>M.A. No. 983 of 2016 and M.A. No. 984 of 2016</u> This application is for permitting registration of commercial diesel operated vehicles which is Euro-IV with Chassis No. MSC2121CFFP019786. It is stated that so far as the Applicant is using private vehicle provided by M/s. Bharat Benz for transporting/supplying the petroleum product of Indian Oil Corporation. For the reason stated in the application we permit

	Item No. 19 to 27 November, 28, 2016 ss	registration of the above vehicle of Chassis No. MSC2121CFFP019786 subject to the condition that it is Euro-IV and the sole proprietary of the company shall file personal affidavit that he does not own any diesel vehicle plying in NCT, Delhi which is more than 10 years old. Affidavit shall be filed before the Tribunal as well as Transport Authority. With the above directions, both these Miscellaneous Application Nos. 983 of 2016 and 984 of 2016 stand disposed of. No order as to cost. <u>M.A. No. 979 of 2016</u> The Applicant submits that the new vehicle bearing chassis no. MAT716013G2H18911 be ordered to be registered as it is only to be used for the purpose of carriage of petroleum products from the company depot to fuel station of the Applicant. Application is allowed subject to the following condition that vehicle is BS-IV Compliant. Affidavit of the Managing Director will be filed stating that the company does not own any diesel vehicle which is 10 years old. Affidavit would be filed before the Registrar Transport Department as well as before the Tribunal. However, registering Authority of the Transport Department would register the truck only when it is actually provided with dismantling and scrapping certificate of vehicle bearing registration DL1GB5951 along with the photograph of the dismantled vehicle. With the above directions M.A. No. 979 of 2016 stand disposed of.

	Item No. 19 to 27 November, 28, 2016 ss	<u>M.A. No. 1180 of 2016</u> The Learned Counsel appearing for the Applicant wishes to withdraw this application with liberty to file appropriate application, if necessary. Application is dismissed as withdrawn. Liberty as prayed is granted. <u>M.A. No. 1037 of 2016 and M.A. No. 1038 of 2016</u> Issue Notice to the Managing Director of Hindustan Petroleum. Notice returnable on 09th January, 2016. <u>M.A. No. 755 of 2016, M.A. No. 756 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924 of 2016, M.A. No. 986 of 2016, M.A. No. 1050 of 2016 & M.A. No. 1155 of 2016.</u> These applications are allowed to the limited extent that the buses shall be permitted to ply beyond Meerut and Buland Shahar in the rural areas subject to the following conditions:- 1. The affidavit would be filed by the Managing Director/Managing Partner/Sole Proprietor stating that they would convert these vehicles into CNG as and when the source of fuel is available. 2. They would maintain the vehicle properly and once they cross age more than 15 years old then those vehicles would be scrapped and certificate to that effect shall be given. The Learned Counsel appearing for the Uttar Pradesh submits that the Board would be taking up the matter in as much as in principle the scheme for adopting CNG as fuel source in those areas has been approved by the Government.

	Item No. 19 to 27 November, 28, 2016 ss	With the above terms, M.A. No. 755 of 2016, M.A. No. 756 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924 of 2016, M.A. No. 986 of 2016, M.A. No. 1050 of 2016 & M.A. No. 1155 of 2016 stand disposed of. No order as to cost. <u>Main matter</u> Issue Notice to DSIDC to be present on the next date of hearing. List these matters tomorrow i.e. on 29th November, 2016. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,JM (Raghuvendra S. Rathore) ,EM (Bikram Singh Sajwan) ,EM (Ranjan Chatterjee)

Original Application No.21 of 2014

IN THE MATTER OF:

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava and Mr. Salik Shafique (in OA 21/2014)
Respondent No. 1:		Ms. Panchajanjya Batra Singh, Advocate
Respondent No. 2 & 4:		Mr. Narender Pal Singh, Adv. along with Mr. Dinesh Jindal, LO (DPCC)
Respondent No. 5 :		Mr. Narender Hooda, Sr. Adv., Ms. Bano Deswal and Ms. Sukhmani Bajwa, Adv.
Respondent No. 7 :		Mr. D. Rajeshwar Rao, Adv. for Traffic Police
Respondent No. 8 :		Mr. Rajiv Bansal and Mr. Kush Sharma, Adv.
		For DDA
		Mr. Vikrant Kaushik, Adv. – Local Commissioner
		Mr. Charanjeet Singh, Adv. – Local Commissioner
		Mr. Praveen, Adv. – Local Commissioner
		Ms. Savitri Pandey, Adv. for the State of U. P.
		Mr. Ruchir Batra, Adv.
		Mr. Ardhendumauli Kumar Prasad, Adv. for MoTransport & MoUrban Department
		Ms. Puja Kalra and Mr. Harsha Peechara, Adv. for South and North MCD
		Ms. Puja Kalra, Adv. alongwith Mr. Meena, Addl. Commissioner for SDMC
		Mrs. Avnish Ahlawat with Mr. Nitish Singh, Adv. and Director U.D., Sh. Krishna. For GNCT, MoUD

Date and Remarks	Orders of the Tribunal
Item No. 08 February 17, 2015	<u>M.A. No. 132 of 2015</u> Notice. The Learned Counsel appearing for non-applicant accepts notice. We have heard the Learned Counsel appearing for parties. There is no objection to the impleadment. In fact the Tribunal has already passed orders in relation to control of air pollution in the area of Karol Bagh. In these circumstances, M.A. No. 132 of 2015 is allowed to the limited extent that the Association of Vayapar Mandal, Ajmal Khan Road, New Delhi is directed

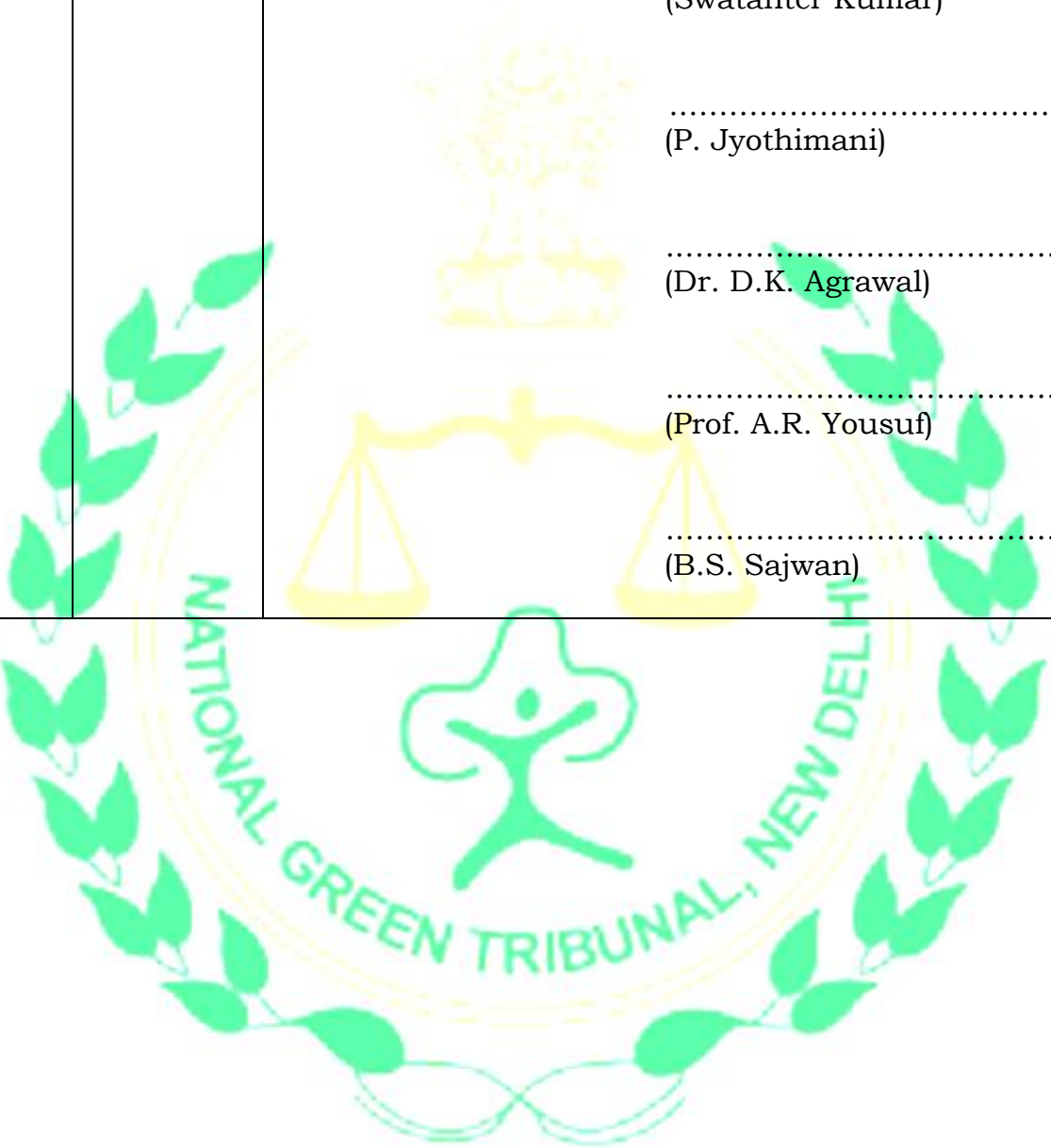
		to be impleaded as Respondent party in the main Application No. 21 of 2014. With the above direction without prejudice and contention of the right and averments made in this application, M.A. No. 132 of 2015 stands disposed of. <u>M.A. No. 90 of 2015</u> We have heard the Learned Counsel appearing for the parties at length as well as the suggestions made by senior officers of the Authorities including Additional Commissioner and Chief Engineer of the South Delhi Municipal Corporation and other officers. The views of the market association have also been taken into consideration. Additional Commissioner, South Corporation submits that he would have to discuss the matter with the higher authorities of the Corporation as well as other department to submit before the Tribunal in respect of site and the time period that would be required for constructing the multi-level parking in Lajpat Nagar for traffic decongestion and free traffic flow so as to improve the air quality in that area. On his request, we grant time and direct the Delhi Urban Shelter Improvement Board which has already approved the temporary parking site for parking of vehicles till the multi-level parking is constructed in that area. We would be passing the detailed order only after these matters are clarified. However, in the meanwhile, we direct the South Delhi Municipal Corporation to mark the areas on the roads, that is, Veer Savarkar Marg, Firoz Gandhi Road and Shiv Mandir Marg with red line, where

	single parking would be permitted on these roads. The red line shall be marked on the both sides road of Veer Savarkar Marg and Shiv Mandir Marg while it will be on one side on Firoj Gandhi Road towards police station. The Corporation shall block the Central verge by placing Jersey Barriers, having a width of not more than two feet, end to end, while duly protecting the trees line on these roads in the central verge. There will be no space left in between. In other words the placing of the Jersey Barriers would begin from one end of the road to the other end of the road without break and at no point, intersection would be permitted. No Rickshaw and Hawkers would be permitted on the metalled road, as the right of the Hawkers has been permitted by the Hon'ble Supreme Court in the area beyond the Metalled Road in the case of <i>Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013</i>. In the event any vehicle is parked in the Central Verge or beyond the red line on any of these roads, the traffic police shall take a serious view of the matter and deal with the offender in accordance with law. Besides, this we make it clear that since such offenders add to the pollution of environment and degrade the air quality to the extent which is very injurious to human health, they should be liable to pay compensation in terms of Section 15 of the NGT Act, 2010. In fact, we have already determined the compensation at Rs. 1,000/- per vehicle in terms of our order dated 19th January, 2015. On behalf of the Board, the Learned Counsel

	appearing upon instruction from the Director, who is present in the Tribunal, has submitted that they would temporarily provide parking space in their land lying beside MCD Hospital, but the parking area would be under their control and would operate the parking facilities themselves. They record this and request that the police and all other concerned authorities be directed to encourage people to park their vehicles in the open land adjoining besides the M.C.D. Hospital. We make it clear that the Corporation will not be entitled to any right on this land and it is a concession by the board which the Tribunal appreciates. All the market Associations of Lajpat Nagar will fully co-operate in implementation of these directions. In the event of default, we will be compelled to pass orders totally prohibiting parking in this area. The Learned Counsel appearing for the Associations Federation submits that they would adhere to direction and in fact would employ temporary staff to encourage proper parking and to maintain free flow of traffic in that area, so as to completely reduce the emission to the minimum possible level for improving the air quality in that area. We accept this undertaking given by the market association federation. In every parking area the parking capacity shall be identified by the Corporation and it shall be electronically displayed as to how much space is available and how much space occupied and parking shall be regulated accordingly. The corporation submits that it would like to manage the parking in that area themselves through contractors or otherwise. We leave this to the

		discretion of the Corporation. However, in event of default and cars being parked beyond red line, the Corporation will take appropriate action against the contractors or the agencies appointed for this purpose. P.W.D. shall fully cooperate with the corporation for execution of these directions. According to the counsel appearing for the market association federation, it is submitted that a sum of Rs. 159 Crores has been paid by the residents and by the shopkeepers. This money according to them was paid only for parking development. However, according to the Learned Counsel appearing for the Corporation this amount was paid in furtherance to the Judgement of the Hon'ble Supreme Court of India in M.C. Mehta case and were for converting residential use to the commercial one and for one time parking charges and Rs. 159 Crores collected from the Lajpat Nagar, have not been exclusively spent for the development of parking in Lajpat Nagar but have been spent of all over Delhi. Let the Corporation inform the Tribunal as to how much amount of Rs. 159 Crores collected has actually been spent upon improving parking or carrying out any public related development in that area. We also permit the corporation to submit before the Tribunal, if they still want public to contribute more for construction of the multi-level parking facility etc. We direct the Joint Commissioner, Traffic, particularly, S.H.O., Lajpat Nagar and Traffic Inspector of Lajpat Nagar to ensure that these directions by the Tribunal are implemented without default and delay. We

	make it clear in the event of default, we shall hold the senior officer of all the public bodies and the Police Authority personally responsible. List this matter on 25th February, 2015 ,CP (Swatanter Kumar) ,JM (P. Jyothimani) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



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

Original Application No. 21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO. 200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015, M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO. 274 OF 2015, M.A. NO. 283 OF 2015 & M.A. NO. 284 OF 2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Vardhaman Kaushik and Mr. Salik Shafique, Adv.
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate for MoEF
	Respondent No. 2 & 4:	Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO, DPCC
	Respondent No. 3 :	Mr. Rajiv Bansal with Mr. Kush Sharma, Adv. for DDA.
	Respondent No. 5,6 & 7:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 8 :	Mr. Arun Baroka, Secretary, PWD, GNCTD
	Respondent No. 9 :	Mr. Mukesh Kumar, Adv.
	Intervener	Mr. Mukesh Kumar, Adv. and Mr. Yogesh Khanna for Sansha Kumar for NHAI For State of Tamil Nadu Ms. Ruchia Batra, Adv. for Traders Association, Lajpat Nagar. Mr. I.K. Kapila, Mr S.K. Pabhi, Mr. A.K. Singh and Ms. Shrucha Rai, Adv. for Karol Bagh Traders Fed. Mr. Anil Gover, AAG with Mr. Rahul Khurana and Vijender Singh, SI, Traffic & Highway Police, Karnal for State of Haryana Ms. Savitri Pandey, Ms. Azma Parveen, Adv. for state of U.P. Mrs. Avnish Ahlawat, Adv. for DTC, DUSIB, GNCT (Transport Deptt.) and SHO Karol Bagh Ms. I. Begum standing counsel for GNCTD and Sec. PWD. Mr. Narender Pal Singh, Adv. for Urban Dev. Ministry for GNCT Ms. Sakshi Popli for NDMC Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjiv Ahlawadi and Ms. Priya Deep, Adv. Mr. Amit Verma, Adv. appointed as Local Commissioner Mr. Arun Barrka, Sec. PWD, Mr. Jayesh Kumar, CE, Mr. G.P. Bansal, SE, PWD and Mr. C.S. Azad, EE, PWD. Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic) Charanjeet Singh, Adv. Local Commissioner Mr. Abishek Dhanania – ACP, Karol Bagh Mr. Mahesh Kumar, SHO, Karol Bagh

Original Application No. 95 of 2014

Present:	Applicant:	Mr. Sanjay Kulshretha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha and Manish Shrivastava, Adv.
	Respondent No. 1:	Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 8 :	Mr. Deepak Khadaria, Adv. for B. H., Ajmal Khan Market Association
		Ms. Savitri Pandey and Ms. Azma Parveen, Adv. state of U.P.
		Mr. N. Yogesh Kanna and Mr. Santha Kumar, Adv. for state of Tamil Nadu.

	Date and Remarks	Orders of the Tribunal
	Item No. 01 & 02 April 07, 2015 ss	The Learned Counsel appearing for the Applicants in both the Applications and other Applicants having similar interest have vehemently contended that all the Authorities and the States in NCR, Delhi have utterly failed to comply with the directions issued by the Tribunal in its orders and particularly the orders dated 26th November, 2014, 28th November, 2014 and 04th December, 2014 respectively. The contention is that much less the compliance to the directions issued by NGT the Authorities, Departments and the State Governments have not even initiated the process for compliance of these directions. With the increasing pollutants in the air, life of residents in the NCR, Delhi is becoming more and more vulnerable to various diseases and the greatest sufferer of these pollutants are young children of today and India's tomorrow. The slackness and casual attitude of the Authorities of the state Government is exhibited from the very fact that the air pollution is increasing and has reached to an alarming level which would make it difficult for the people of Delhi even to breathe freely much less fresh air. We find substance in the submissions made before us. In the recent past the media particularly the print media

	has highlighted the adverse impact of deteriorating Ambient Air Quality in the NCR, Delhi and particularly Delhi city perse. The articles widely published are based on scientific studies and are well supported by data. The articles reveals that 7 years ago everyone saw Delhi air taking a dead U-Turn, but no action was taken. Statistics referred are that in the year 2000, the particulate matter in the Air of Delhi was 191 µg/m³ which reduced to 161µg/m³ in 2007 right from the year 2003 to 2007 because of the orders of the Hon'ble Supreme Court of India introducing CNG transport system in Delhi. However, in the year 2014, particulate matter has again shot-up to 360 µg/m³. It is reported further that as many as 80,000 trucks enter Delhi every night and sleeping population is compelled to inhale high particulate matters resulting in serious health hazards as diesel fuel can damage the lungs, brain and even cause cancer. It has been pointed out that diesel is the prime source for bringing serious air pollution in Delhi particularly and children are even finding it difficult to breathe. The situation is so alarming that medically it is being advised that for recovery, people should leave Delhi. The question that arises at present, and what the resident of Delhi are most concerned is, what the principle of inter generational equity requires of the present/by Governing and the ones who are being Governed. There are three serious pollutants of air which we have already noticed in our previous orders. Firstly, burning of plastic and other wastes including Agriculture or Horticulture waste in open. Secondly, pollution resulting from construction and other allied activities emitting heavy dust contained in the air. Thirdly, Pollution resulting from

		vehicular traffic and industrial emission. We had passed diverse directions for preventing and controlling pollution and for improvement of the air quality in Delhi with regard to all the three major sources of air pollution. Unfortunately, the implementation remains question of concern. The pollutant causing deteriorating air quality is not a normal situation, it can hardly be tackled unless stringent measures are taken and directions are implemented expeditiously and with all the sincerity by the Agencies, Authorities, Departments and Government. We had directed NCT, Delhi and other Governments to submit their views on matters like controlling of vehicular pollution, total number of vehicles, age of vehicles. The above mentioned authorities were also required to submit their views on congestion, control and prevention of construction pollution, checking of vehicles for pollution at the state entry point, overloading of trucks and construction of parking areas in all congested places of Delhi to avoid congestion and to ensure free flow of traffic. Unfortunately, we find no response in that regard. We hereby issue directions to all the State Governments, Public Authorities, Corporations and Govt. of NCT, Delhi to produce all original records before the Tribunal to show what action have been taken by all or any of them for compliance of the directions issued by the Tribunal so far. Let this record be produced on 10th April, 2015. Reverting back to one of the major sources of air pollution that is dust emission from construction activities. This pollution mainly occurs due to mishandling of debris and building waste material, carriage and storage of

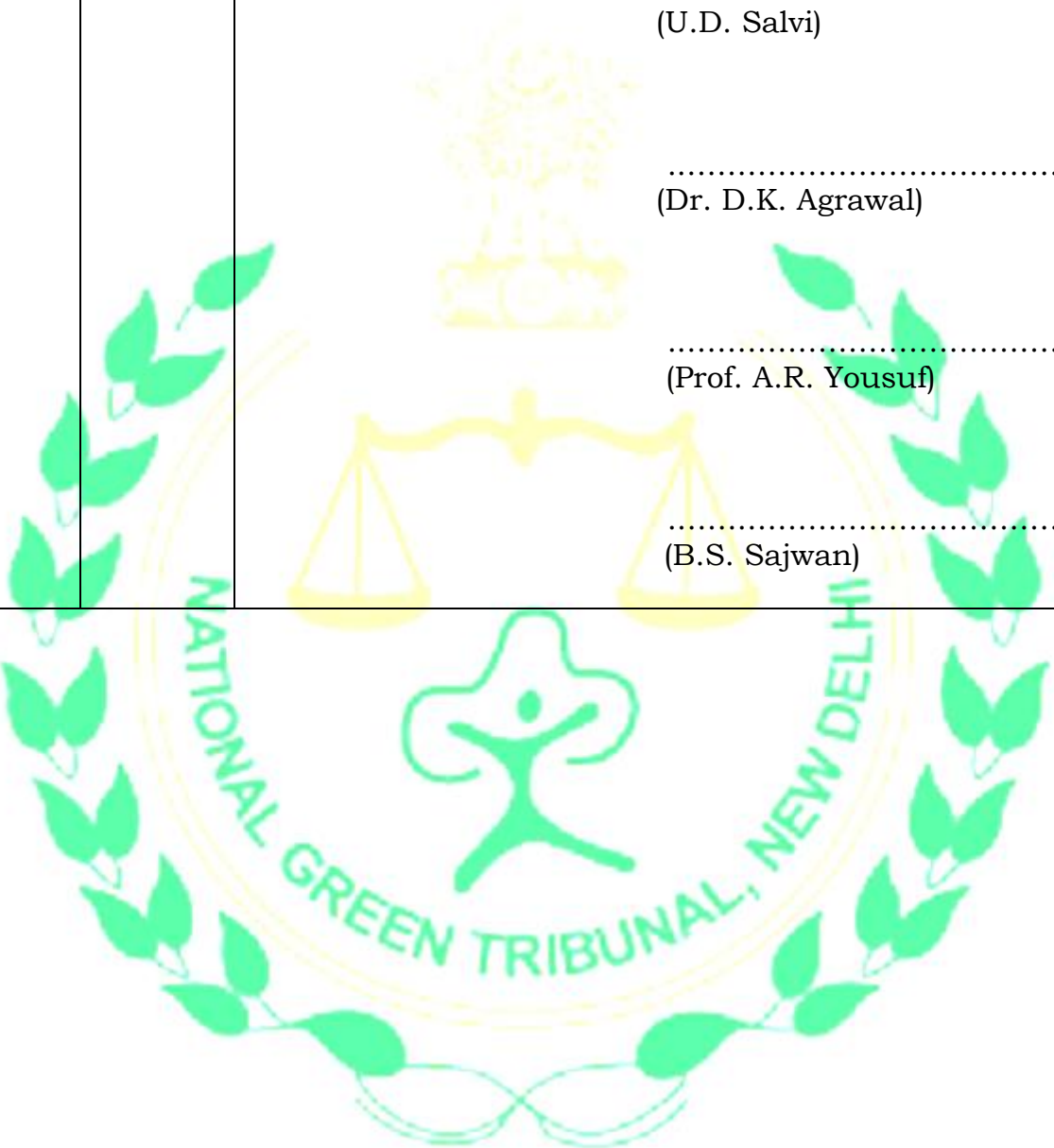
		construction material and as no steps are taken for environment protection by the builders during the course of the construction. On 06th April, 2015 various newspapers have reported about the huge dust emission resulting from the above mentioned activities in various parts of NCT, Delhi. The reports show huge construction activity emitting very high dust components and emitting the same in the air. The concrete dust in the air can be lethal when it combines with particulate matter arising from vehicular emission. In this report the construction activities has been referred to that of 2 km stretch from NH-24 to Charmurti Chowk in NOIDA Extension and Golf course road, Gurgaon. To the naked eye, uncontrolled and high dust emission are visible in the photographs and it is also clear that no protective measures have been taken in and around the buildings under construction. Vide our order dated 26th November, 2014 and 04th December, 2014, we have passed clear direction as to the steps which the person responsible for construction, carrying construction material and dealing with debris should take. Hence, it is clear that this reported construction as mentioned above is in blatant violation of those directions. Besides this, all the construction activities have to be carried on in following the Ministry of Environment guidelines/manual for Township and Area Development Project, 2010. It is reported that in NOIDA Extension, no protective measures have been taken and there was absolutely no check on the emission of dust resulting from construction and allied activities. Similar is the state even in Gurgaon where construction activities are being carried on without any preventive steps as detailed by the order of the Tribunal and MoEF guideline of 2010.

		Furthermore, the transportation of construction debris is always in a manner which is totally prejudicial to the environment. In these circumstances we hereby direct state of U.P., NOIDA and Greater NOIDA Authority, HUDA, State of Haryana and NCT, Delhi to immediately direct stoppage of construction activities of all the buildings shown in the report as well as at other sites wherever, construction is being carried on in violation to the direction of NGT as well as the MoEF guideline of 2010. This action shall be taken and complied with by all the state Government, Authorities and Police of each district particularly falling in the NCR, Delhi. The compliance report shall be submitted by the next date that is 10th April, 2015 to the Tribunal. Wherever the construction activities are not stopped by service of this order by the authorities upon the builders, the authority shall seal such building and report the matter to the Tribunal. With regard to the compliance of the conditions for check booth at all the entry points for checking of emission standards of the heavy vehicles, weigh bridges, overloading of trucks and life of the vehicles, we appoint the following Learned Advocates as Local Commissioners :- 1. Mr. Amit Verma, Adv. 2. Mr. Aditya N. Prasad, Adv. 3. Mr. Neha Miriam Kurian, Adv. 4. Mr. Atif Suhrawaroy, Adv. 5. Mr. Sahil Sangar, Adv. 6. Ms. Pallavi Talware, Adv. The Local Commissioner shall visit all the check points of Delhi on 09th April, 2015 and report to the Tribunal for compliance of the direction as recorded in the

	orders afore stated. All authorities particularly the police are directed to provide police help to enable the Commissioners to execute the commission. The report shall be submitted to the Tribunal on 10th April, 2015 and shall also include the status of installation of weigh bridges and providing of U-Turn for the vehicles which are overloaded and polluting. The studies have established that the diesel vehicles are major source of pollution and major cause for deteriorating ambient air quality. The studies as indicated in the news reports are not the only material before the Tribunal. We, however, had directed the Central Pollution Control Board to carry out the study on ambient air quality. The report submitted by CPCB to the Tribunal clearly show that the parameters are totally violated. Comparatively the air quality in Lajpat Nagar appears to improve, but still it is infringing the prescribed parameters quite seriously. The analysis has been carried on 24th and 25th March, 2015 when it was preceded by restricting of traffic in Lajpat Nagar in terms of order of NGT. At site I, PM₁₀ level against the prescribed value of 100 µg/m³, it is found to be 162 and 211 µg/m³ respectively. In relation to PM_{2.5}, against the prescribed value of 60 µg/m³, it is found to be 89 and 120 µg/m³, respectively. At site II, PM₁₀, against the value of 100 µg/m³, has been found to be 180 and 201 µg/m³. This shows that the ambient air quality is still harmful for human health in one area. Other study report mentions much worse about other parts of Delhi. NOIDA is stated to be worse than Delhi even. We may also mention that many of countries of the world are in the process of doing away with diesel vehicles and are imposing very heavy taxes and

	levies on such vehicles. Such countries include amongst other Brazil, China, Sri Lanka, Denmark and Paris. We have already noticed that certain stringent measures need to be taken to improve the ambient air quality in NCR, Delhi and to ensure that the residents of this area do not travel closer to ill-health by each breath that they take. Thus we hereby direct that all diesel vehicles (heavy or light) which are more than 10 years old, will not be permitted on the roads of NCR, Delhi. All the registering authorities in the state of Haryana, U.P. and NCT, Delhi would not register any diesel vehicle which is more than 10 years old and shall file the list of vehicles before the Tribunal and provide the same to the Police and other concerned authorities. Petrol vehicles which are more than 15 years old and diesel vehicles that are more than 10 years old shall not be registered in the NCR, Delhi. In relation to further improving Lajpat Nagar market congestion and to prevent undue emission from vehicular pollution, we hereby direct :- 1. That the area where cement Jersey barrier have not yet been installed, should be installed immediately and reported to the Tribunal. In the meanwhile, protective barrier consisting of three layered ropes should be provided all along the mid-section of the road to ensure free flow of traffic. No space for U-Turn should be left from one of the road to another. 2. No hawker or any other trolleys would be permitted to be parked or stationed on the metalled path of the carriage way. Parking of cars shall be permitted strictly in terms of the previous order of the Tribunal.

		List the matter for further direction and for compliance of the above direction on 10th April, 2015 at 02:00 PM. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



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

Original Application No.21 of 2014

(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO. 200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015, M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO. 274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF 2015)

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014

Present:	Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava and Mr. Salik Shafique, Advs. Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for MoEF Respondent No. 2 : Ms. Alpana Poddar, Adv. Respondent No. 3: Ms. Puja Kalra, Adv. Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms. Arpita, Adv. for DDA. Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv. Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic) Ms. Neha Kurian, Ms. Pallavi Talware, Mr. Aditya N. Prasad, Mr. Amit Verma, Mr. Atif and Mr. Sahil Sangar- Local Commissioners Ms. Savitir Pandey, Adv. for State of UP Mr. Narender Pal Singh, Adv. for R-2 & 4 Mr. I.K. Kapka, Ms. Shikha Rai, Mr. A.K. Singh, Mr. S.K. Pabbi, Adv. For Karol Bagh Trader Federation Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjay Kumar, EE (P) Shri Ruchir Batra, Adv. for Lajpat Nagar Traders Association Mr. Chirag M. Shroff, Adv. for NCT, Delhi Ms. Sakshi Popli, Adv. for NDMC Mr. Ravinder Kumar, Adv. for NOIDA and Gr. NOIDA Authority Mr. Pinaki Mishra, Sr. Adv., Mr. Rahul Mehra, Ms. Zubdabegum for GNCTD Mr. Avnish Ahlawat, Adv. for DUCIB, DTC, Transport Dept. & GNCT Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. for State of Haryana Mr. Janjeev Ailawali and Ms. Priya Dup, Adv. Mr. Ajwal Khan, Adv. for Mr. Beopul Mandal, Mr. Deepak Khada Ria, Adv. Mr. B.S. Jaiswal, IPS, Dept. Traffic, Southern Range Mr. Surya Kant Patil, ACP of Traffic, Southern Range Insp. Shailendra S. Chauhan, TI/HKG

Present:	Applicant:	Mr. Sanjay Kulshretha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha, Advs.
	Respondent No. 1:	Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 7 :	Ms. Savitri Pandey, Adv. for State of U.P. Mr. Mukesh Kumar, Adv. for NHAI Mr. N. Yogesh Kanna and Mr. A. Santha Kumar, Adv. for state of Tamil Nadu. Mr. Chirag M. Shroff, Adv. for NCT Delhi.

Remarks	
Item No. 01 & 02 April 10, 2015	The Learned Counsel appearing for the state NCT, Delhi has submitted that the Government of NCT, Delhi has taken a policy decision to implement all the directions of the Tribunal to ensure that people of Delhi get cleaner air to live and lead better life environmentally. The Learned Counsel appearing for the Union of India also states that the Government is committed for better environment. For the statements made above, and in any case, which have been widely reported, that there is definite concern and initiative being taken by the Central as well as State Government to clean the air of Delhi and to provide better ambient air quality for a healthy and decent environment to the residents of Delhi, we record our appreciation for this concern and initiative being taken by the respective Governments. We also express a pious hope that in the interest of public health and environment, the directions now being issued by the Tribunal would be implemented without default and delay.

		The Learned Counsel appointed as Commissioners by the Tribunal submitted they have visited the sites (entry point of Delhi) and have prepared their report. They pray for time to file the report during the course of the day. Liberty granted. We also direct the Learned Local Commissioner to file collective report in regard to the recommendations that they wish to make for better implementation of the directions of the Tribunal. Let the copies of the inspection report be furnished to all the Learned Counsel appearing in this case for Government and Public Authority and state, who should file their response within one week from today. The Learned Local Commissioners are directed to visit the entry points whenever they wish to. Police shall provide them due assistance and help to enable them to execute commission without obstruction and inconvenience. Copy of the report be given to all the Learned Counsel appearing for various State authority irrespective whether they are party or not. It is scientifically established fact that the pollutants of ambient air quality are from vehicular pollution, dust pollution, pollution by burning and emission from industry. Today we have decided to deal with this case in phases to prevent and control of air pollution on the one hand and pass directions for restoration of ambient air quality. The matter pertaining to dust emissions from building construction, transportation C&D waste, mining and allied activity is being dealt. Development in all fields is an essential feature of a developing country. If the stake holders carry out the

	development activity in fragrant violation as to the principal of sustainable development the results can be disastrous. They may have serious adverse impact not only on environment and ecology of the area but even would raise serious issues of public health. Where construction activity is one of the very significant facet of development there it is one of the serious contributor of air pollution by generating dust. Dust could be generated purely from construction activity, transportation of construction material, construction debris waste and by carrying on mining activity. Dust emission from these activities attain dangerous dimensions when its carried out rampantly and in a unregulated manner. The stack holders for short economic gains do not take environmental preventive and protections measures prescribed under laws exposing not only their workers but the entire population of the area to variety of diseases some of them are even life threatening. Despite the fact that the Benches of the Tribunal have expert members from diverse fields of environment. The Tribunal had adopted approach of consulting the stack holders while dealing with the issues of air pollution in Delhi and the steps that are required to be taken for improving the air quality. The Committees were constituted and even deliberations issued vide orders dated 24th November, 2014 and 01st December, 2014 in regard to controlling the polluting and improving the ambient air quality in Delhi. In the Order dated 01st December, 2014 we had issued a set of directions particularly dealing with the requirements of prevention and control of air pollution resulting from emission of dust in the atmosphere. All the directions

		contained in that order shall be read and construed as part of this Order and directions issued hereinafter. The Expert Committee constituted by the Tribunal had collected samples from 36 different sites in Delhi, Haryana and Uttar Pradesh. The analysis reports indicate significant exceeding parameters. For instance nitrogen dioxide as per the prescribed standard is to be $84 \mu\text{g}/\text{m}^3$ was found to be between $146\text{-}208 \mu\text{g}/\text{m}^3$ in Faridabad in Delhi. The particulate matter as against permissible of PM $10 \mu\text{g}/\text{m}^3$ were found to be $484\text{-}276\text{-}948 \mu\text{g}/\text{m}^3$ in Delhi and Faridabad and the surroundings areas. The particulate matters with reference to PM 2.5 is excessively violative in Delhi and has gone upto 1284 as against prescribed standard of $60 \mu\text{g}/\text{m}^3$. Carbon dioxide in Delhi is found to be $7.81 \mu\text{g}/\text{m}^3$ against the prescribed value of $2 \mu\text{g}/\text{m}^3$. Similar data was also taken note by the Tribunal in its order dated 16th March, 2015. Nitrogen dioxide was found to be $367 \mu\text{g}/\text{m}^3$ against the prescribed value of $80 \mu\text{g}/\text{m}^3$ on 140 occasions on 24 hours basis. The particulate matters PM 2.5 ranged between 30.41 to $1284 \mu\text{g}/\text{m}^3$ against the NAAQS value of $60 \mu\text{g}/\text{m}^3$. Carbon monoxide and benzene both were found to be exceeded. This persuaded to pass the certain directions in that behalf. The same should also read as part of this order. It has been widely reported that massive construction activity is going on without taking any precautionary and preventive measures. There are no covers scaffolding no housing of road to reduce dust dispersal. The construction materials are not covered, the workers are not provided with gadgets to prevent inhaling of dust particles particularly fine particles.

		Thus there is dire need to immediately pass appropriate directions for preventing and controlling the pollution of air from dust and to improve ambient air quality particularly of NCR of Delhi. We are not oblivious of all the difficulties that may come in the way of the bonafide purchaser and the builders for the restrained orders passed by on 16th March, 2015. But it is not only legal but even a social and corporate responsibility of all the builders to carry on construction activity or mining activity strictly in accordance with the prescribed rules. They must ensure that for small economic gains they do not expose the public including their purchasers and workers to serious diseases and adversely affecting the public health at large. The constitutional right to life, decent and clean environment has to take precedent over the right of an individual to carry on business activity. Thus we pass the following directions: (i) No Corporation, authority or instrumentality of the State vested with the power of sanctioning plans, drawings for construction of any commercial, residential and even construction of small plots would impose a clear condition that sanction of plans is subject to the builder, owner or person seeking sanction would strictly comply with the directions contained in this order as well as the MoEF Guidelines, 2010 while raising construction. (ii) Such Authorities shall forth with issue notices to all the builders raising any kind of construction that they should strictly adhere to and comply with the directions contained in this order of the

		Tribunal as well as MoEF Guidelines, 2010 is relation to precautions required to be taken while carrying on construction. (iii) Every builder or owner shall put tarpaulin on scaffolding around the area of construction and the building. No person including builder, owner can be permitted to store any construction material particularly sand on any part of the street, roads in any colony. (iv) The construction material of any kind that is stored in the site will be fully covered in all respects so that it does not disperse in the Air in any form. (v) All the construction material and debris shall be carried in the trucks or other vehicles which are fully covered and protected so as to ensure that the construction debris or the construction material does not get dispersed into the air or atmosphere, in any form whatsoever. (vi) The dust emissions from the construction site should be completely controlled and all precautions taken in that behalf. (vii) The vehicles carrying construction material and construction debris of any kind should be cleaned before it is permitted to ply on the road after unloading of such material. (viii) Every worker working on the construction site and involved in loading, unloading and carriage of construction material and construction debris shall be provided with mask to prevent inhalation of dust particles.

		(ix) Every owner and or builder shall be under obligation to provide all medical help, investigation and treatment to the workers involved in the construction of building and carry of construction material and debris relatable to dust emission. (x) It shall be the responsibility of every builder to transport construction material and debris waste to construction site, dumping site or any other place in accordance with rules and in terms of this order. (xi) All to take appropriate measures and to ensure that the terms and conditions of the earlier order and these orders should strictly comply with by fixing sprinklers, creations of green air barriers. (xii) Compulsory use of wetjet in grinding and stone cutting. (xiii) Wind breaking walls around construction site. (xiv) All concerned Government that is state of NCT, Delhi state of U.P., state of Rajasthan and Haryana shall ensure that mining activity if otherwise permitted in accordance with law and orders of the Court is strictly regulated and carry out in a manner prescribed under rules and to ensure that least dust has emitted into air/atmosphere and all steps are taken to prevent the same. (xv) The Corporation, DDA, HUDA, NOIDA, Greater NOIDA Authority and all other Authorities and instrumentalities of the state and its department shall make all efforts to increase the 'tree cover' area by planting large number of trees of various species depending upon the quality content of soil

		and other natural attendant circumstances. (xvi) All the builders who are building commercial, residential complexes which are covered under the EIA Notification of 2006 shall provide green belt around the building that they construct. All Authorities shall ensure that such green belts are in existence prior to issuance of occupancy certificate. (xvii) The state Government of NCT, Delhi, Haryana, Uttar Pradesh, state of Rajasthan, all Public Authorities in these states, Corporations, Development Agencies and all other Authorities persons and Departments of the state Government, Pollution Control Boards and Police Authorities shall ensure complete and expeditious compliance of all these directions with immediate effect. a. The Station House Officer, Environmental Engineers, Engineers of the Corporation and of all the Regulatory and Development Authority responsible for sanctioning of plan, granting consent and issuance of completion certificate would be personally and strictly responsible for compliance of these directions in the area/areas that fall under their jurisdiction. In the event of default they shall be liable to pay compensation for such environmental degradation or for pollution of ambient air quality in NCR, Delhi particularly. b. If any person, owner and or builder is found to be violating any of the conditions stated in this order and or for their non-compliance such

		person, owner, builder shall be liable to pay compensation of Rs. 50,000/- per default in relation to construction activity at its site and Rs. 5,000/- for each violation during carriage and transportation of construction material, debris through trucks or other vehicles, in terms of Section 15 of the NGT Act on the principle of Polluter Pay. Such action would be in addition not in derogation to the other action that the Authority made take against such builder, owner, person and transporter under the laws in force. c. The Government of NCT, Delhi shall take immediate step to enhance the capacity of its plant for reutilisation and recycling of C&D waste. It is undisputed on record that NCR, Delhi is generating nearly 4000 MT of C&D waste every day and the capacity of the plant is not able to utilised even 10% of such generated waste. All builders shall ensure that C&D waste is transported in terms of this order to the site in question only and due record in that behalf shall be maintained by the builders, transporters and NCR of Delhi. d. We make it clear that even if constructions have been started after seeking Environmental Clearance under the EIA notification 2006 and after taking other travel but is being carried out without taking the preventive and protective environmental steps as stated in this order and MoEF guidelines, 2010, the State Government,

	SPCB and any officer of any department as aforestated shall be entitled to direct stoppage of work. In relation to Lajpat Nagar, we make it clear that the cement Jersey Barriers would be placed at both the ends of the road. There shall be no crossing permitted from one end to the road and another end of the road. In other words, there would be no intersection. We are informed that the parking space as provided by the Board is able to accommodate nearly 550 cars which would has provided a great relief to the traffic congestion in Lajpat Nagar. This arrangement would continue in terms of the order of the Tribunal till further order. Police Authorities present before the Tribunal, shall ensure that all the directions issued by the Tribunal in regard to the de-congestion of traffic thus resulting in minimum emissions from vehicular pollution should be carried out strictly without default. The CPCB shall place on record ambient air quality analysis pre orders and post orders. We are informed that data of ambient air quality for 2007 to 2009 have been placed on record. The CPCB shall prepare a comparative table and DPCC shall fully assist in that behalf. Reference in the air quality report shall be also made regarding existing climatic condition at the time of collection of sample. Needless to mention that Delhi Metro is carrying on huge construction activities in Delhi, its public benefit and public importance cannot be denied but still they are required to ensure that they do not cause any air pollution. Therefore we direct Delhi Metro or any other Government or private construction agency carrying on massive construction project that they will strictly adhere to construction activities in terms of this

	order and the guidelines contained in MoEF guidelines, 2010. The Learned Counsel appearing for the State of Haryana, State of U.P., NOIDA and Greater NOIDA submit that they will ensure that the directions of this order and that of 16.03.2015 will be complied with forthwith. The MCD, South will file an affidavit by the next date of hearing positively stating as to which place in Lajpat Nagar they would build the multi level parking. Chief Engineer would be present before the Tribunal on the next date of hearing. List this matter on 17th April, 2015 at 02:00 PM. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

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

Original Application No. 21 of 2014

(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO. 200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015, M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO. 274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015, M.A. NO. 382 OF 2015, M.A. NO. 392 OF 2015, M.A. NO. 393 OF 2015, M.A. NO. 394 OF 2015, M.A. NO. 408 OF 2015, M.A. NO. 411 OF 2015 TO M.A. NO. 414 OF 2015)

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014

Present:	Applicant:	Mr. Sanjay Upadhyay along with Mr. Salik Shafique
	Respondent No.1:	Ms. Panchajanya Batra Singh, Adv.
	Respondent No. 2&4:	Mr. Narender Pal Singh, Adv., Dr. M.P. George, Scientist 'D' with Mr. Dinesh Jindal, LO
	Respondent No.3:	Mr. D. Rajeshwar Rao, Adv. Counsel for Delhi Traffic Police
	Respondent No.6&7:	Mr. Ardhendumauli Kr. Prasad, Adv. Mr. Rajiv Bansal & Mr. Kush Sharma, Adv. (DDA) Mr. Gurinderjit, Adv. For PPCB Ms. Puja Kalra, Adv. For SDMC and North MCD Mr. Jayesh Gaurav, Adv. For State of Jharkhand & JSPCB Mr. Ruchir Batra, Adv. For Lajpat Nagar Traders Association Mr. Anil Soni, AAG and Mr. Naginder Benial, Adv. For State of Punjab Ms. Pinky Anand, Sr. Adv., ASG, Ms. Kritika Sachdeva, Mr. Balendu Shekhar and Mr. Rajesh Ranjan, Adv. Mr. Rahul Mehta, Adv. For Delhi Electrical Traders Association Ms. Reena Singh, AAG of UP and Ms. Bhakti Pasrija Sethi, Adv. For GDA Ms. Sakshi Popli and Ms. Mousha Mehmood, Adv. for NDMC Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P. Mr. Pragyan Sharma and Mr. Shikhar Garg, Adv. For State of Mizoram Mr. Jagdeep Kumar Sharma, Adv. For Delhi Hindustan Mercantile Association Mr. K.V. Jagdishvaran and Mrs. G. Indira, Adv. For UT of Andaman & Nicobar Islands Mr. Sunil Satyarthu, Adv. For Delhi Cantonment Board Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. For State of Haryana Mr. Guntur Pramod Kumar & Prerna Singh, Adv. For State of Andhra Pradesh Mr. Alok Kumar and Mr. Chetankakkar, Adv. For UT Daman & Diu Mr. Ravindra Kumar, Adv.

Mr. Apoorv Kurup and MR. V.C. Shukla, Adv.
For state of Chhattisgarh
Mr. Mukesh Kumar, Adv. For NHAI
Mr. Sanjeev Ralli and Mr. Sahil Sangar, Advs.
for Chandni Chowk Sarv Vyapar Mandal
Ms. Nupur Kanungo and Ms. Hemantika Wahi,
Advs. for Gujarat PCB
Ms. Pinky Anand (ASG) with Mr. Rajesh Ranjan,
Balendu Shekhar and Ms. Neha, Advs. for
Ministry of Road Transport
Mrs. Aruna Mathur and Mr.Yusuf Khan, Advs.
For State of Sikkim

Original Application No. 95 of 2014

Present:	Applicant:	Dr. Sanjay Kulshrestha, Adv.
	Respondent No.1:	Mr. Vikas Malhotra, Advs.
	Respondent No.2, 5 & 6:	Mr. Ardhendumauli Kr. Prasad, Adv.
	Respondent No. 3 :	Mr. K. Enatoli Sena, Adv.
	Respondent No. 4 :	Ms. G. Indira, Adv. For Andaman & Nicobar Admn.
	Respondent No. 7 :	Mr. Ritwick Dutta and Mr. Maneka Kaur, Adv. For Conservation Action Trust Mr. Suryanarayan Singh, Addl. AG for State of H.P. Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. For State of Haryana
	Respondent No. 29 :	Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu Mr. Jayesh Gaurav, Adv. For State of Jharkhand & JSPCB Mrs. Aruna Mathur and Mr.Yusuf Khan, Advs. For State of Sikkim Mr. Priyadeep and Mr. Sanjeev Ailawadi, Advs. Intervenor Mr. Shubham Bhalla, Adv. For Chandigarh Admn. Mr. Kabir S. Bose and Mr. Saakaar Sardana, Advs. for WB & WBPCB Mr. Surya Naryan Singh, Adv. For H.P. Mr. Aruna Mathur and Mr. Yusuf Khan, Adv. For State of Sikkim Mr. Shikkar Garg for Mr. Pragyan Sharma, Adv. For Mizoram Mr. Alok Kumar and Mr. Chetan Kakkar, Adv. For UT of Daman & Diu and Dadara & Nagar Haweli Mr. Preerna Singh, Guntur Pramod Kumar, Adv. State of Andhra Pradesh Mr. Aditya Prasad, Eiq. Adv. Mr. Aproorv Kurup and V.C. Shukla, Adv. For state of Chhattisgarh

	Date and Remarks	Orders of the Tribunal
	Item Nos. 02 to 03 May 1, 2015	M.A. NO. 408 OF 2015 No suggestions have been moved on behalf of the Applicant. In interest of environment and free flow of traffic, we direct the completion of the work for providing central verge, as decided by the Administration and on which to a large extent work has been completed. There will no place in the central verge as it would obviously

		result in congestion of traffic and increased emissions resulting in pollution load and would be of great danger to the human life. Let this work be completed without any delay and proper traffic lights would be fixed for providing proper turns including U turns from the road and towards Don Bosco School. The SHO concerned is directed to provide all due assistance for execution of the work by the Administration. <u>Original Application No.21 of 2014 & Original Application No. 95 of 2014</u> The NCT of Delhi, Ministry of Petroleum, Ministry of Urban Development, MoEF even the other public Authorities including State of Uttar Pradesh and Haryana have not submitted any suggestions in terms of our Order dated 13th April, 2015. An Application has been moved on behalf of the Ministry of Road Transport and Highways in which Learned Addl. Solicitor General would be submitting further suggestions. In light of the above, we are not in a position to proceed with the matter further but we make it clear that if all these Ministries and State Governments do not comply with our order dated 13th April, 2015 we will be compelled to proceed with the matter and forfeit their rights to submit any suggestion or data. Let the needful be done within two weeks from today with advance copies to all the learned counsel appearing in the matter. All other States should also file their suggestions within two weeks from today. List these matters on 18th May, 2015.

	<u>M.A. NO. 394 OF 2015</u> Notice have already been issued. Let the Reply by any of the person including non-Applicants be filed within two weeks from today. The Addl. Solicitor General submits that she would be advising the Ministries to hold a common meeting and file common suggestions. We have no objections in that regard. List this matter on 18th May, 2015. <u>M.A. NO. 382 OF 2015</u> It has been brought to our notice that Hon'ble Delhi High Court is dealing with the Chandani Chowk matter relating to roads and other de-congestion matters in <i>extenso</i>. In light of the above, we do not see any reason to interfere and continue hearing on this Application and same is directed to be withdrawn with liberty to take such other legal remedy as may be available to the Applicant in accordance with law. With the above directions, M.A. No. 382 of 2015 stands disposed of. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal)

		,EM (Prof. A.R. Yousuf)
		,EM (B.S. Sajwan)



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

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 156/2016 M.A. NO. 172/2016, M.A. NO. 475/2016, M.A. NO. 564/2016,
M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO. 690/2016, M.A. NO. 755/2016,
M.A. NO. 756/2016, M.A. NO. 766/2016 M.A. NO. 783/2016 M.A. NO. 789/2016
& M.A. NO. 790/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

And

Original Application No. 181/2013

(M.A. NO. 824/2015)

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Omesh Saigal Vs. Govt. of NCT of Delhi & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

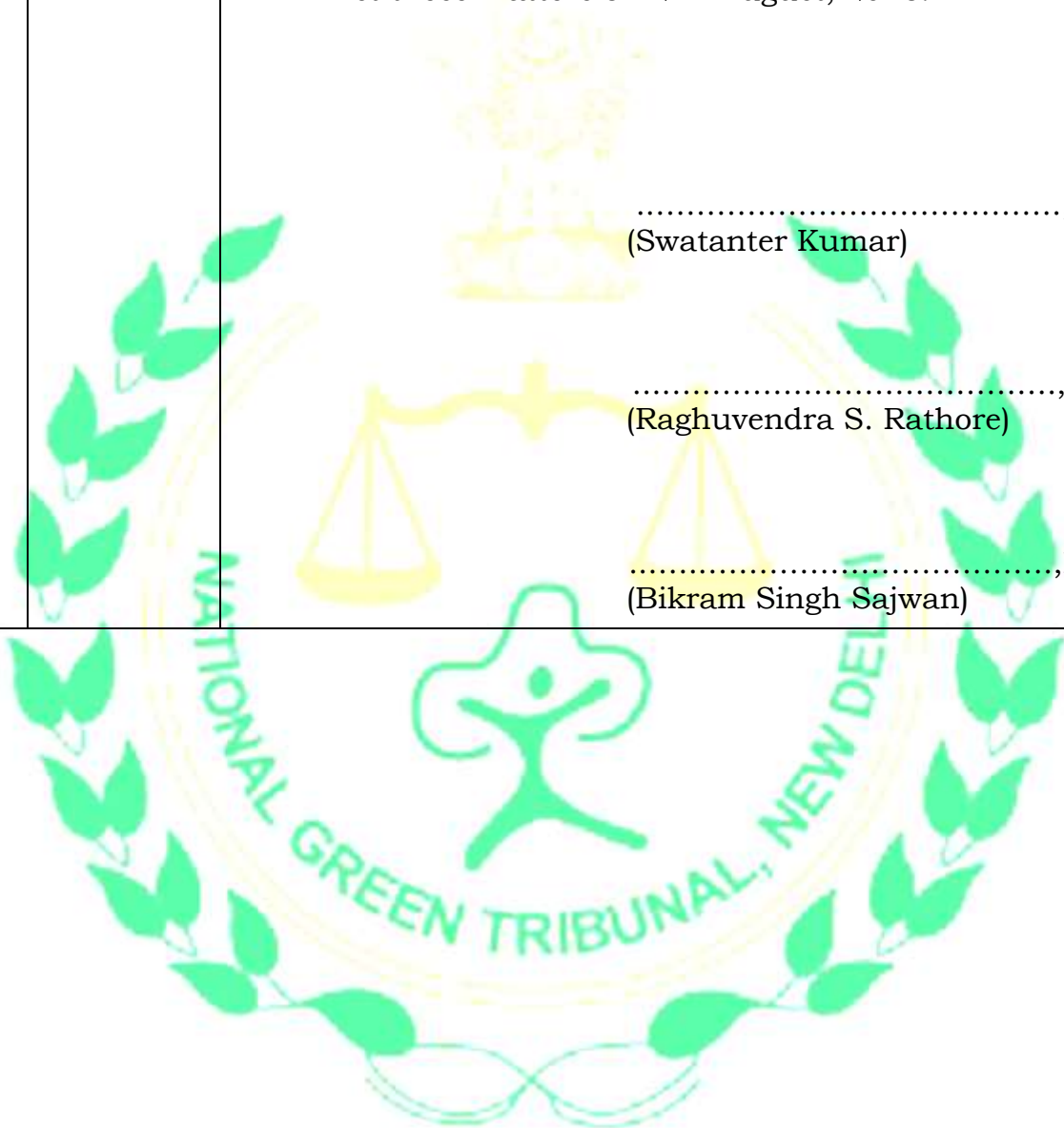
Present: Applicant:

Mr. Sanjay Upadhyay and Mr. Salik Shafique, Advs.
Mr. Akshat Bhatuagal, Adv. for Applicant in M.A. No. 156 of 2016
Mr. Roshan Lal Goel, Adv. with Dr. Amit Jindal, Adv. for Applicant in M.A. No. 789/16 M.A.No. 790/16
Mr. Tariq Doeab, Adv. in M.A. 1029/15
Mr. M.P. Sahay and Mr. Roopesh Singh Bhadaviria, Advs. in M.A. No. 766/2016
Respondent No. 1: Ms. Panchajanya Batra Singh, Advs. For MoEF & CC
Mr. Rajiv Bansal and Ms. Arpita, Advs. for DDA
Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Advs. for PWD, Delhi Police and Transport Deptt. With Mr. Harender K. Singh, DCP, Traffic
Mr. Anil Soni, AAG with Mr. Naginder Benipal, Adv.
Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Advs.
Mr. K. Sunil, Adv. for Ms. Usha Jain & Mr. Hemant Jain
Mr. Nishe Rajen Shanker, Standing Counsel for State of Kerala.
Mr. Rajul Shrivastava and Mr. Abhinav Shrivastav, Advs. MPPCB
Ms. Sakshi Popli, Adv. NDMC
Mr, Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Advs.
Mr. Raman Yadav, Adv. for GDA
Mr. Atul Jha Adv. for State of Chattisgarh
Mr. Devraj Ashok, Adv. for State of Karnataka & PCB
Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Advs.

Mr. Vikas Singh, Sr. Adv. with Ms. Pragya Ohri, Ms. Amrita Narayan and Ms. Shruti Dass.
 Mr. Surendra Kumar, AE, PWD
 Mr. Y.N. Vidyarthi, Adv.
 Mr. Balendu Shekhar, Adv. with Mr. Vivek Jaiswal, Adv. for EDMC
 Ms. Hemantika Wahi, Ms. Puja Singh and Ms. Aagam Kaur, Advs.
 Mr. Gopal Singh and Ms. Varsha Poddar, Advs.
 Mr. Pritpal Singh Nijjar, Ms. Ambika Nijjar, Mr. Amit Kumar, Mr. Pranav and Mr. Siju, Advs.
 Mr. Amit Agarwal and Ms. Asha Basu, Advs.
 Mr. Pinky Anand, ASG, with Mr. Balendu Shekhar, Mr. Rajesh Ranjan, Ms. Somya Rathore, Mr. Vivek Jaiswal and Mr. Ansh Luthra, Advs. for Ministry of RTH and Ministry of Heavy Industries, MoEF
 Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Advs. for Andaman & Nicobar Administration
 Mr. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Advs.
 Mr. Rudreshwar Singh and Mr. Gautam Singh, Advs.
 Ms. Puja Kalra, Adv. for NDMC, SDMC
 Mr. Pragyan Pradip Sharma and Mr. Ravi Kant, Advs. for State of Mizoram
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Sapam Biswajit Meitei and Mr. Z.H. Isaac Haiding, Advs. for State of Manipur
 Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs. for State of Sikkim
 Mr. Abhishek Yadav, Adv. for State of U.P.
 Mr. Suryanarayan Singh, Sr. AAG State of HP
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Adv. for GNCTD
 Mr. Jogy Scaria and Ms. Beena Victor, Advs. State of Kerala and SPCB
 Ms. Alpna Poddar, Adv. & Mr. Bhupinder Kr. LA., CPCB
 Mr. Mukesh Verma and Ms. Devesh Kumar Agnihotri, Adv. for MPCB and State of Maharashtra.
 Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad
 Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
 Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
 Mr. Ravindra Kumar And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
 Ms. Priyanka Sinha, Adv. for State of Jharkhand
 Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
 Mr. Anil shrivastav, Mr. Sanyam Saxena and Mr. Pranav Rishi, Advs. for State of Arunachal Pradesh & AP Pollution Control Board
 Mr. Santosh Rebello and Mr. Debarshi Bhuyan, Adv. for State of Goa and Goa SPCB
 Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO, Delhi Pollution Control Committee
 Mr. Sandeep Narain, Ms. Natasha Sahrawat, Ms. Tahira Karanjawala and Ms. Khushboo, Advs.
 Mr. Shiv MangaL Sharma, AAG, Mr. Adhiraj Singh and Mr. Sarurabh Rajpal, Advs. for Rajasthan PCB
 Mr. R. Rakesh Sharma and Mr. M. Marutha Samy Adv. for State of Tamil Nadu and TNPCB
 Mr. Gaurav Kr. Bansal, Adv. In MA 264/2016
 Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
 Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
 Mr. V.K. Shukla, Adv. for State of M.P.
 Mr. Ashish Negi, Ms. Ritika Bhalla and Ms. Richa Kapoor, Advs. for PPCB
 Ms. Bhavana Dahoon, Adv. for NHAI
 Ms. Taruna A. Prasad, Adv. for MoEF
 Mrs. Rani Chhabra, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item No. 26 to 30 August 09, 2016 ss	<u>M.A. No. 789 of 2016 and M.A. No. 790 of 2016</u> The Learned Counsel appearing for Applicant wishes to withdraw these applications and to take such steps that are permissible in law. Consequently M.A. No. 789 of 2016 and M.A. No. 790 of 2016 are stand disposed of. Liberty as prayed granted. <u>M.A. No. 783 of 2016</u> Heard. Issue Notice to the respondents. The Learned Counsel appearing for Corporation, NCT, Delhi and others accept Notice, waive service. Copy be furnished if not furnished to all the Learned Counsel appearing for respondents in this case. Reply to the application be filed within two weeks from today. List this matter for hearing on 24th August, 2016. <u>M.A. 564 of 2016 and M.A. No. 578 of 2016</u> These applications are filed by the applicant for impleadment. We allow these applications without prejudice to the rights and contention subject to just exception. Applicant would have right to address the Tribunal on merits. With the above directions M.A. No. 564 of 2016 and M.A. No. 578 of 2016 stand disposed of. <u>Main matters</u> Mr. Harendra K. Singh, DCP/Traffic Southern Range, Delhi Police is present before the Tribunal. He submits that he has already discussed the entire matter

Item No. 26 to 30 August 09, 2016 ss	and they would be taking steps. NCT, Delhi and PWD are directed to fully co-operate with the DCP, Traffic to put up traffic lights for proper regulation and in order to avoid noise and air pollution at Rao Tula Marg, near the flyover. Let this work be done expeditiously and report be placed before the Tribunal on the next date of hearing. List these matters on 24th August, 2016. ,CP (Swatanter Kumar) ,JM (Raghuvendra S. Rathore) ,EM (Bikram Singh Sajwan)



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

Original Application No. 21/2014 (Only Notices)

And

Original Application No. 21/2014

**(M.A. No. 156/2016 M.A. No. 172/2016, M.A. No. 949/2016, M.A. No. 567/2016
M.A. No. 1220/2016, M.A. No. 22/2017, M.A. No. 47/2017, M.A. No. 52/2017,
M.A. No. 71/2017, M.A. No. 63/2017, M.A. No. 82/2017, M.A. No. 104/2017,
M.A. No. 147/2017, M.A. No. 177/2017, M.A. No. 180/2017, M.A. No. 185/2017,
MA. No. 218/2017, MA. No. 219/2017, MA. No. 238/2017, MA. No. 264/2017,
MA. No. 265/2017, MA. No. 294/2017, MA. No. 352/2017, MA. No. 367/2017,
MA. No. 375/2017, MA. No. 383/2017, MA. No. 385/2017, MA. No. 386/2017,
MA. No. 434/2017, MA. No. 435/2017, MA. No. 436/2017, MA. No. 437/2017,
MA. No. 443/2017, MA. No. 444/2017, MA. No. 446/2017, MA. No. 447/2017,
MA. No. 448/2017, MA. No. 449/2017, MA. No. 450/2017, MA. No. 453/2017,
MA. No. 454/2017, MA. No. 455/2017, MA. No. 456/2017, MA. No. 457/2017,
MA. No. 458/2017 & MA. No. 459/2017)**

And

Original Application No. 95/2014

(M.A. NO. 1156/2016)

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER
HON'BLE DR. AJAY A DESHPANDE, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant:

**Mr. Salik Shafiq, Mr. Sart Mitara Jaiswal and Ms. Upama
Bhattacharjee, Advs.
Mr. Rishabh Sharma, Adv. for the Applicant in O.A. No.
609/2016
Mr. Hitesh Kuar, Mr. Maish Garg, Adv. in M.A.
Mr. Ruchir Batra and Mr. Hitesh Batra, Adv. in M.A. 444 of
2017
Ms. Bhumika Kapoor, Adv. in M.A. 63/2017
Mr. Harvinder Sekhon appearing in person
Mr. Sunil K. Jain and Mr. Punya Garg, Adv. in M.A. 82 of
2017
Mr. Nasam Khurshid, Adv. in M.A. No. 265 of 2017
Mr. Rahul Khurana, Adv. in M.A. 459 of 2017
Mr. Arjun Syal, Adv., for M.A. No. 287 & 288/2017**

Mr. Sameer Kulshreshtal, Adv. for Applicant in MA. No. 264/2017
 Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO
 Mr. Sumit Kishore, Adv. for PNGRB
 Mr. S.S. Panicker, Adv. and Mr. Anmol Diwan for Applicant in MA. No. 294 of 2017
 Mr. Rajiv Bansal, Mr. Kush Sharma, and Ms. Arpita, Advs. for Delhi Development Authority
 Ms. Khushboo Bari, Advs. for Tata Motors in MA. No. 172/2017
 Mr. D. Rajeshwar Rao and Mr. Gyanendra Chaturvedi, Adv., Delhi Police, PWD and Transport Deptt.
 Ms. Sakshi Popli, Adv. For NDMC
 Mr. Atul Jha, Adv. for State of Chattisgarh
 Mr. Anchit Sharma & Ms. Satamita Ghosh, Advs. for DCB
 Mr. Balendu Shekhar, with Mr. Vivek Jaiswal, Mr. R.K. Maurya, Advs. for EDMC in MA. NO. 350/2017
 Mr. Sanjeev Ralli and Mr. Trinayan Sonowal, Advs. for Chandni Chowk Sarv Vyapar Mandal
 Mr. Ashish Rana & Mr. Shaveer Ahmed, Advs.
 Mr. Edward Balho, and Mr. K. Luikang Michael, Ms. Elix Gangmei, Advs. for State of Nagaland
 Mr. Rudreswar Singh and Mr. Gautam Singh, Advs. for State of Bihar and Bihar PCB
 Mr. Nishe Rajen Shonker, Adv. for State of Kerala
 Mr. Vibhav Misra and Ms. Saumya Misra, Advs.
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, and Mr. Charan Jeet Singh, Advs. GNCTD
 Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Mukesh Verma, and Mr. Bikash Kr. Sinha, Advs.
 Mr. Jogy Scaria, Adv. for State of Kerala State Pollution Control Board
 Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Ms. Priyanka Gupta, Adv. for State of Jharkhand
 Mr. Pradeep Misra and Mr. Daleep Dhyani, Advs. UPPCB
 Mr. Sapam Biswajit Meitei, Adv. for State of Manipur
 Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar and Prashan Mathur, Advs. for State of AP
 Mr. Gopal Singh and Ms. Varsha Poddar, for State of Tripura and State Pollution Control Board
 Mr. Anil Shrivastav, Mr. Rituraj Biswas and Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh
 Mr. V. K. Shukla, Adv. with Ms. Vijay Lakshmi, Advs.
 Mr. Abhishek Yadav, Adv. with Mr. Amit Kumar, SDM Dadri for State of Uttar Pradesh
 Mr. Raja Chatterjee, Mr. Chanchal Ganguli, Mr. Piyush Sachdev and Mr. Adeel Ahmed, Advs. for State of WB
 Mr. Ashish Negi and Ms. Richa Kapoor, Advs. for PPCB
 Mr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Vishwendra Verma, Adv. for MoEF
 Ms. Alpana Poddar, Adv. with Ms. Niti Chaudhary, LA Central Pollution Control Board
 Mr. Anil Soni, AAG and Mr. Naginder Benipal, Adv. for State of Punjab
 Mr. R. Rakesh Sharma, Adv. for State of Tamil Nadu and TNPCB
 Ms. Aruna Mathur and Mr. Avneesh Arputham and Ms. Anuradha Arputham, Mr. Amit Arora, Advs. for State of Sikkim
 Mr. Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Advs. for State of Rajasthan and RSPCB
 Ms. Priyanka Swami, adv. For Nagar Nigam Ghaziabad
 Mr. A. K. Prasad and Mr. Jaydip Pati and Mr. Namit Saxena Advs. for MoUD and PNG
 Mr. Taruna A. Prasad, Adv.
 Mrs. Rani Chhabra and Ms. Priyanka Sony, Advs. in M.A. Nos. 47, 71 & 238 of 2017
 Mr. Vijay K. Sondhi, Mr. Arnav Sanyal and Ms. Cauveri Birbal, Advs.
 Mr. Soumyajit Pani, Adv.
 Mr. Amit Agarwal and Ms. Asha N. Basu, Adv. for WBPCB
 Mr. Dinesh Kumar Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Ms. Yogmaya Agnihotri, Adv. for CECB
 Mr. Somayajit Pani, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 24 to 29 April 20, 2017	The Learned Counsel appearing for NCT Delhi submitted that in principle, the Government has already decided to experiment destination buses. He has submitted before us today a Status Report on the existing system of buses and the proposed destination bus system to be introduced. After hearing the Learned Counsel appearing for the parties, including NCT Delhi, we direct as follows: 1. That as proposed, the NCT Delhi, all other concerning Departments and the instrumentalities of the State shall introduce destination buses with effect from 1st May, 2017, as suggested and without default. 2. The destination buses would mean the buses which will start from point A and shall go non-stop to the destination point B. 3. The buses initially, on experimental basis, would start from Dwarka, Rohini, Janak Puri, CGO Complex and Badarpur Border. The destination buses, from these points, will start from the main bus stand of the sectors or spots which are convenient for the public at large, to board these buses. They will start preferably in the early hours of the day to ensure that the persons travelling by such bus is able to reach their respective offices on time. These buses would be directed towards Central Secretariat, Shashtri Bhawan, Krishi Bhawan, Connaught Place, Nehru Place and such other centres where large number of offices are

	Item No. 24 to 29 April 20, 2017	located. These destination buses would in the evening; coinciding with the office hours, return from the point of their destination to the starting point i.e. the places from where they had carried the passengers in the morning. 4. We direct the Director, Transport of NCT Delhi to ensure that all these buses reach on time without default and to the convenience of the public at large. The Director of Transport along with the Joint Commissioner of Police, Traffic would submit a Report in respect of the reduction of individual cars as a result of introduction of the destination buses. If necessary, they can make enquiry from the persons of the buses, whether they were earlier travelling by their own cars. 5. The destination vehicles would be maintained properly and DTC would depute special officers from their circle who would be responsible for cleaning, for maintaining hygiene of the vehicles as well as that they would operate punctually and the staff would treat the passengers with respect and decency. The Status Report shall be filed by the Director and Joint Commissioner of Police to the Tribunal after a period of three weeks of running of these destination buses. 6. The NCT Delhi and Joint Commissioner of Police, Traffic shall duly advertise, w.e.f. 25th April, 2017 information daily for the public at large. It is brought to our notice that the Committee has been constituted by NCT Delhi. The Report of that Committee shall be implemented only subject to orders of

	Item No. 24 to 29 April 20, 2017	the Tribunal. We direct NCT Delhi and all the Corporations to ensure that vacuum cleaning machines start operating in areas of Delhi where the roads are wide enough, positively by 1st May, 2017. The Joint Commissioner of Police is directed to ensure construction of appropriate walls at Rao Tula Road (RTR) and fix red light blinkers. The wall, at the point where the bridge starts, should be extended by at least 2-3 mtr. Wherever U-turns have been provided, the red light blinkers shall be fixed to ensure there is no unruly overtaking and traffic jams at such points. List these matters tomorrow i.e. on 21st April, 2017. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim) ,JM (Raghuvendra S. Rathore) ,EM (Bikram Singh Sajwan) ,EM (Dr. Ajay A Deshpande) ,EM (Dr. Nagin Nanda)

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

**Original Application No. 21/2014
And**

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay, Adv. Ms. Upama Bhattacharjee and Mr. Saumitra Jaiswal, Adv.
Mr. V. Shekhar, Sr. Adv, Mr Arun K. Shukla, Mr. Sumit Sinha and Mr. Shashank, adv for UFLEX
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv. for State of Uttarakhand
Mr. Raman Yadav, Adv. for GDA
Mr. Amit Agarwal, Ms Asha Basu, Adv. for WBPCB
Dr. Dipankar Saha Addl. Director Central Pollution Control Board
Mr. I. K. Kapila, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv
Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Adv. for State of West Bengal
Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA
Mr. A.K. Prasad and Mr. Shashank Saxena, Adv. for MoPNG
Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
Ms. Sakshi Popli, Adv. and Pritaka, Adv for NDMC
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA for Central Pollution Control Board
Mr. Mukesh Verma and Mr. Pawan Kr. Shukla, Adv.
Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Rajiv Bansal, Sr. Adv, Mr. Kush Sharma and Mr. Lalit Mohan, Adv. for Delhi Development Authority
Mr. Archit Sharma, Ms. Satamita Ghosh and Mr. Rahul Singhal, Adv.
Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, , and Ms. Simran Jeet, Adv. For State of Sikkim & Pollution Control Board
Dr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
Mr. Anchit Sharma, Mr. Adit Pratap Singh and Mr. Dipankar Wadhwa, Adv.
Mr. Om Prakash, Adv. for Railways
Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoineithiam Adv. For Nagaland.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam.
Mr. Gautam Singh, Mr. Rudreshwar Singh Adv. for BSPCB
Mr. Gautam Singh and Mr. Sohoeab Alam, Adv. for State of Bihar
Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. Mr. Rajkumar Maurya for East Delhi Municipal Corporation
Mr. Surekh Kant, Adv for Mr. Ashish Rana, Adv
Mr. Shiv Mangal Sharma (AAG), Ms. Shikha Sandhu & Mr. Saurabh Rajpal, Adv. for State of Rajasthan and RSPCB
Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & G Indira, Adv. for UT of Admanan and Nicobar Administration
Mr. Naginder Benipal, PPCB
Dr. Sandeep Singh, Adv., Mr. Utkarsh Sharma and. for State of Uttar Pradesh
Mr. D. Rajeshwar Rao, and Mr. Abhinav Srivastava, Adv. for Delhi Police with Mr. Vijay Singh DCP Traffic
Ms. Puja Kalra, Adv. for SDMC
Mr. Keshav Chandra, Secretary, GNCTD, Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee, Dr. M P George, Sr. Secretary, Mr. Dinesh Jindal, L.O. Delhi Pollution Control Committee, Dr. Anil Kumar, Director, GNCTD

Date and Remarks	Orders of the Tribunal
Item No. 01 to 05 November 11, 2017 SS & RP	We have heard the Learned counsel appearing for various stakeholders, applicants including the NCT Delhi, Central Pollution Control Board, Delhi Pollution Control Committee and the Learned counsel appearing for all the Pollution Control Boards of the State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab. It is fairly conceded before us by the Scientists of the Central Pollution Control Board and Delhi Pollution Control Committee and all the officers from the different boards and the officers of the NCT Delhi that rain would result in automatic fall in pollutants level of the ambient air quality. They state that the sprinkling of water thus is one of the best means to reduce the pollutants in case of environment emergency. They also submit that diesel vehicles and two wheelers/two stoke engines are much

	Item No. 01 to 05 November 11, 2017 SS & RP	more serious contributors of air pollution rather than the petrol operated cars. According to the Central Pollution Control Board, vehicular pollution contributes nearly 20% of the total air pollution load in NCT Delhi and out of these 20% the 30% contributions is by two wheelers. Accordingly to them firstly the two wheelers are much more in number than other class of vehicles and secondly they emit serious pollutants like Carbon Monoxide and Hydro Carbon which are not emitted or negligibly emitted by the petrol vehicles. It is further stated that the structural construction activities, carriage of construction material and burning of waste and crop residue are the other major components of air pollution in Delhi and NCR. The Learned counsel appearing for the NCT Delhi has submitted that in furtherance to the recommendation of Graded Response Action Plan (GRAP) and the judgment of the Tribunal, the Government of NCT Delhi is committed to implement odd-even scheme and it has also been directed by the Hon'ble High Court of Delhi in its order dated 09th November, 2017. He further submits that there should be a greater cooperation and coordination between the various Local Authorities, Executing Departments and Police for effective implementation of the directions issued by the Tribunal as well as the notification issued by the Central Government requiring NCT Delhi to implement GRAP. It is further stated that under GRAP, the odd and even scheme should be implemented automatically whenever PM_{10} and $PM_{2.5}$ increases $500 \mu g/m^3$ and $300 \mu g/m^3$

Item No. 01 to 05 November 11, 2017 SS & RP	respectively for 48 hours. In other words, it is a measure which has to be taken as a part of complete mechanism provided for prevention and control of ambient air quality not only when there is environmental emergency or values are very severely bad. The precautionary principle places obligations upon all the Authorities including the Statutory Boards to anticipate extent and damage by adversely and highly polluted ambient air quality and should take precautionary and remedial measures at the appropriate stage and not wait for the crises to come. It is correctly said that prevention and precaution is a better remedy than dealing with the situation posing crises. It is emphasized by the Learned counsel appearing for the NCT Delhi that they are very sincere and would implement scheme in regard to the above notification and directions of the Tribunal and would not leave it optional. The compliance of law, particularly, where it serves the public interest and more so right to decent and clean environment which is a fundamental right of citizen. All other contentions must tilt in favour of achieving this goal rather than bringing excuses which would cause environmental degradation and damage to public health. The principle of inter-generational equity requires the present generation and particularly the State and its instrumentalities to ensure compliance with the directions which are aimed at protecting environment and public health. In this background and particularly the fact that the Scientist and Expert from various Boards, Organizations and Departments are add-idem that we

	Item No. 01 to 05 November 11, 2017 SS & RP	proceed to pass the following directions:- 1. The NCT Delhi would be free to implement ‘Odd and Even’ scheme as declared by it, but strictly subject to the condition that we state hereinafter. In terms of the notifications, orders of the courts, Tribunal and GRAP, as and when the PM₁₀ and PM_{2.5} crosses values of 500 µg/m³ and 300 µg/m³ respectively, it shall be mandatory for NCT Delhi and all its Government Departments to implement odd and even without default and it shall not be optional for any officer of the Government or institutions to avoid these directions and non-compliance of notification. There shall be no exemption to any person, officer and individual and the two wheelers from the ambit and scope of odd and even scheme. They will be applied with equal rigour to all cases and all vehicles. However, the vehicles which are CNG operated would be saved from the implementation of odd and even scheme. The only vehicle which will be granted exemption are the vehicle which are used for emergent services like vehicles carrying municipal solid waste, Ambulance, Fire Brigades and Vehicles meant for carrying on emergent repair of electricity, other public services and the Government Vehicles of the dignitaries that has been granted exemption by the Grovernment. Every entry point of Delhi shall be properly

Item No. 01 to 05 November 11, 2017 SS & RP	managed by concerned department of NCT Delhi and the Police to ensure that there are no traffic jams on the borders of NCT of Delhi. All the State Governments i.e. State of Rajasthan, State of Haryana and State of Uttar Pradesh shall depute special force at the borders of NCT Delhi to ensure that no inconvenience is caused and congestions are avoided with aim to control air pollution even at those points. 2. All the private transporters who are granted permits by the respective State Governments and NCT of Delhi shall during this emergency period and implementation of odd-even scheme would provide CNG buses in co-ordination with the Department of Transport and NCT of Delhi for carriage of passengers from different parts of NCT of Delhi to the central points, free of charges in discharge of their corporate social responsibility as they are the beneficiaries of the State's Largesse. It will be free for NCT of Delhi Department to issue such direction and demanding requisite number of buses keeping in view the fleet of buses for which permission has been granted and to which it will be in proper proportions. 3. The DTC shall make every effort to ensure that all the buses it procures are CNG buses and the same are utilized for public transportation during the operation of odd-even scheme. 4. Since it is commonly agreed and all the parties and stakeholders are ad-idem that sprinkling of water is

	Item No. 01 to 05 November 11, 2017 SS & RP	a substantial solution for reducing the pollution level in the ambient air quality in emergent situation, we direct that the same shall be implemented without default and delay in future and even during the coming week unless it rains by tomorrow or day after as per the reports of the metrological department. But we make it clear that no economic constraints ground will be entertained as a defense to sprinkling of water if the pollution levels rise beyond PM_{10} - $700 \mu g/m^3$ and $PM_{2.5}$ - $400 \mu g/m^3$. We constitute a team of :- a. Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport; b. Mr. K.K. Dhaiya, Spl. Commissioner, Transport; c. Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee and Spl. Secretary, Environment; d. Dr. Deepankar Shah, Additional Director, Central Pollution Control Board; e. Dr. Prashant Gargava, Additional Director, Central Pollution Control Board; f. Dr. M.P. George, Scientist 'D', Delhi Pollution Control Committee Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport will be the Chairperson of the Committee. 5. This committee shall, from today onwards, collect the data of ambient air quality which shall be tested at least for 8 parameters including PM_{10}, $PM_{2.5}$,

	Item No. 01 to 05 November 11, 2017 SS & RP	Carbon Monoxide, Ozone, Ammonia, SO₂, NO₂ and Lead. A due compilation of at least two samples a day during the peak hours shall be maintained by this Committee continuously for a period of 10 days. We direct all these samples shall be analyzed at the laboratory of the Central Pollution Control Board and IIT Delhi. 6. Besides collecting the data from the ambient air quality stations analyzed by the authorities/ Central Pollution Control Board, ambient air quality samples would be collected and subjected to analyze in both these laboratories and report submitted to the Tribunal on the next date of hearing. 7. Despite direction of the Tribunal and the orders of the NCT of Delhi, still construction activities have been noticed in various complexes. It is brought to our notice that NHAI has been carrying on heavy earthmoving and construction activity at the crossing of turning of CWG Complex near Akshardham, construction work is going on at the NBCC project at Kidwai Nagar and this fact is not disputed. We issue notice to show cause to both these organizations as to why the exemplary fine/ cost be not imposed upon them and also why the Tribunal should not direct the officer responsible for violation of the Tribunal to be sent to civil imprisonment in accordance with the provision of Order 21 read with Section 19 and 26 of the National Green Tribunal Act, 2010. Reply to these notices should be filed before the next date of

	Item No. 01 to 05 November 11, 2017 SS & RP	hearing. It shall be duty of the NCT of Delhi and DPCC to serve the notices upon the concerned officers/ contractors of these organizations. 8. It is also pointed out that there are 13 Thermal Power Plants with a capacity of 11,000 MW in the radius of 300 km of NCT of Delhi. They are serious contributors of pollutants to the ambient air quality in Delhi. They contribute 80% of the Sulphate and 50% of Nitrogen to the receptor concentration. This adds to increase of pollutants of PM₁₀ and PM_{2.5} besides adding other pollutants to the ambient air quality. If emissions from these plants are controlled and or they are upgraded so as to meet strictly in accordance with the prescribed standards it could largely impact the improvement of ambient air quality in NCT of Delhi. 9. We direct the above Committee to submit a report in this behalf to the Tribunal and what precautionary and preventive measures should be taken. The order of the Tribunal dated 08.11.2017 and 09.11.2017 shall apply mutatis-mutandis to this order and all the directions contained in this order must be strictly adhered to. 10. All the corporations and public authorities from all the States of NCT of Delhi and surrounding areas shall ensure that there is no structural construction activity carried on till the next date of hearing. 11. We have already passed directions in relation of burning of waste and crop residue burning. By the next date every State should submit the report in

	Item No. 01 to 05 November 11, 2017 SS & RP	that behalf including all the local authorities of NCT of Delhi. 12. All the corporations and the DDA is hereby directed to post special forces on the land fill sites (municipal solid waste land fill sites) to ensure that there is no fire of any kind from any of these sites. If any fire of the waste burning is brought to the notice of the Tribunal particularly in relation of the land fill sites, every officer incharge concerned under whose jurisdiction that the area shall fall would be liable to be proceeded against in accordance with the law besides imposition of environmental compensation in terms of Section 15 of the National Green Tribunal Act, 2010 upon the said Authority or Corporation. 13. We direct NCT of Delhi to immediately reconsider its decision with regard to the parking charges. We are unable to appreciate what environmental impact it is likely to have particularly when the directions of the Tribunal with regard to construction, providing of parking areas, ensuring that those parking areas and parking buildings, multiple parking are used for parking in a regulatory manner and parking on the road sides is entirely discouraged. We do not have hesitation in noticing that corporation and the State authorities have failed to comply with those directions. The steps must be taken in a holistic manner to achieve the objective of protection of environment creating undue burden on a common man as no solution to environmental issues.

	Item No. 01 to 05 November 11, 2017 SS & RP	14. If cars are permitted to be registered and plied in Delhi then they must be provided with the parking space. For instance, the multiple parking at Sarojni Nagar remains empty which is undisputed fact and all the vehicles are permitted to be parked on the roads where some contractors collect money and add to congestion of traffic. All the Government Authorities, Corporations and NDMC should take immediate and effective steps to rectify these discrepancies and ensure better co-ordination between the Corporations, Government, Police, Departments and the contractors who are engaged for parking purposes. 15. We also direct that in consultation with the Metrological Department, the Chief Secretary of Delhi would take an emergent meeting as and when there is a likelihood of severe pollution of the ambient air quality and definitely before it reaches the values of environmental emergency. 16. The sample of ambient air quality shall be collected and analyzed particularly immediately after the rain if it so happens and report submitted to the Tribunal. 17. We have already clarified that the industries dealing with essential services and goods eatable, subject to inspection by the officers, would be permitted to operate if their emissions are within the prescribed limits and they are non-polluting. 18. The hybrid cars shall also stand exempted. 19. We do not contribute to the principle stated at the

Item No. 01 to 05 November 11, 2017 SS & RP	bar on behalf of NCT Delhi that the volatile ambient air quality value should be for a period of 48 hours or on 48 hours basis. It is bound to be more damaging to human health if a person or public at large is compelled to breath or even for 12 hours the values of which remain within 500 µg/m³ to 700 µg/m³ as against the prescribed value of 100 µg/m³. Thus we direct that 48 hours may be relevant for determining average pollutant values, but not for taking emergent measures particularly when it cross 700 µg/m³. 20. The Learned counsel appearing for NCT Delhi has informed that the site has already been provided for keeping the vehicles which are impounded/seized by the Police being 10 years old vehicles in the case of diesel and 15 years old in the case of petrol. 21. We direct the Commissioner of Police, Delhi to ensure that vehicles which are violating the above directions of the Tribunal should be seized and compliance report be submitted to the Tribunal on the next date of hearing. List these matters on 14th November, 2017 the date already fixed. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. P.B. Singh, Advocate
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 3: Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindal, Adv.
Mr. B.V. Niren, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 7 November 26, 2014 SN	In furtherance to our previous Order dated 7th October, 2014, the Committee headed by Secretary, MoEF has filed an interim Report. This Report primarily outlines the steps, which are generic in nature, to be taken by various authorities and to prepare and chalk out effective action plans. In other words, nothing substantive has been suggested, it does not reflect any steps which have been taken by the authorities concerned for providing and controlling the air pollution in Delhi primarily resulting from vehicular pollution and burning of plastics and other materials in open. We have heard the Learned Counsel appearing for the parties. It is undisputed and in fact unquestionable that the air pollution of NCT, Delhi is getting worse with each passing day. An article published in the Times of India today has been brought to the Notice of the Tribunal. It is based on the studies carried out. It not only projects the very dismayed state of affairs existing with clear indication that worst is likely to follow. This article even declares that it may not be safe for the

		residents of Delhi to go out for morning arising to heavy pollutants present in the air. It is primarily carbon and particulate matters which are injurious to human health, particularly to lungs and ENT diseases. The time is more than right at this stage, when mere consideration of these issues at different levels, could not resolve the issue and no one would help in controlling the increasing air pollution in Delhi. It is a constitutional and statutory duty of all the authorities and Ministries to provide clean air to the people to breathe. It is their fundamental right and it cannot be subjected to limitation of the state of any kind and be permitted to loose sight in the realm of planning and anticipated actions. The Committee has suggested that it would need further time of few months to prepare an Action Plan. Let that Report be submitted to the Tribunal at the earliest. In the meanwhile, we issue the following directions: 1. All vehicles, diesel or petrol, which are more than 15 years old shall not be permitted to ply on the roads and wherever such vehicles of this age are noticed, the concerned authorities shall take appropriate steps in accordance with law including seizure of the vehicles in accordance with the provisions of the Motor Vehicle Act, 1988. 2. The vehicles which are more than 15 years old, will not be permitted to be parked in any public area and they shall be towed away and challaned

		by the police in accordance with law. This direction would be applicable to all vehicles without exception i.e. two wheelers, three wheelers, four wheelers, light vehicles and heavy vehicles irrespective of whether commercial or otherwise. 3. It has been brought to our notice that a bypass has been provided to the traffic coming from Chandigarh side to Uttar Pradesh, but there is no bypass to Delhi as far as Rajasthan and all the States falling in this route to Bombay are concerned. Let all the Respondents including MoEF, Ministry of Transport, DPCC and the Central Pollution Control Board indentify the route which should be provided to bypass Delhi main city for going to this road as felt. 4. No person shall be permitted to burn plastic or any other material in the open. If any person is found to be burning plastic or any other material including tree leaves in the open, he would be liable to be proceeded against in accordance with law and the Police, DPCC and NCT, Delhi shall take immediate steps to ensure that such activity is stopped forthwith. Any person would have the right to approach this Tribunal, the Police station, the DPCC and/or any other competent authority to make a grievance in regard to such unauthorised and illegal burning resulting in air pollution. 5. We direct NCT, Delhi and DPCC to create a web portal where any person aggrieved can take the

		photographs and upload the same with details of location etc. bringing it to the notice of these authorities. 6. All these authorities are hereby directed to create a special force to enforce this direction and ensure its compliance. 7. The Commissioner of Police of Delhi, NCT of Delhi, Municipal Authorities and DPCC shall ensure that tarred roads for regular traffic are not permitted to be used for parking thus causing avoidable congestion of traffic. Once there is a congestion of traffic and vehicles are forced to keep their engines on for considerable long period, it results in extra emissions causing serious air pollution. 8. In all the markets in Delhi, it shall be ensured that there is only one side parking of vehicles and there is sufficient space left for atleast both way carriage and it will be ensured that there is a free flow of traffic and is not unnecessarily obstructed by excessive and unregulated parking on the road. To make it clear, there shall be no parking on the tarred roads of Delhi. All agencies shall ensure compliance. 9. Immediate steps will be taken by all the Respondents and concerned authorities to provide cycle tracks in Delhi and efforts should be made to encourage cycling in Delhi. 10. All the DTC buses, even if operating on CNG, would be checked by the team to be constituted by the CPCB and DPCC. Whichever

		bus is found to be emitting in excess of prescribed standards, the same shall not be permitted to ply and the Managing Director, DTC shall be personally responsible for ensuring compliance to the prescribed emission standards by all the DTC vehicles. 11. The concerned authorities particularly the NCT, Delhi and RTO, Delhi shall ensure that the trucks which are otherwise permitted to cross Delhi in accordance with law are not overloaded. When they enter Delhi, there shall be a due check that the vehicles and the trucks in question are not carrying in excess of the prescribed weight and is not exceeding the age afore-directed. Inspection register for all the vehicles shall be maintained by the Police and the RTO jointly at all the entry and exit point of NCT, Delhi. 12. RTO shall not issue/ renew registration of the vehicles or fitness certificate to any vehicle which is more than 15 years old. 13. We direct the Ministries, NCT of Delhi and DPCC to examine the possibility of installation of air purifiers in all the markets and crowded places or where the traffic load is heavier. Air purifier be installed and Report to the Tribunal be placed on the next date of hearing. 14. Automatic or censor based weigh bridges shall be installed immediately on all the entries and exit point of Delhi. The authorities shall ensure that the vehicles of any kind are not forced to be parked at this point for an unduly long

		period. We further direct that the vehicles standing at the border or near the entry point will not keep the ignition on except when they are permitted to enter and ply. All the concerned authorities and these team be posted at the respective places. All the authorities concerned including the corresponding authorities of the areas falling in NCT of Delhi i.e. Haryana, Uttar Pradesh and Rajasthan will ensure compliance of these directions. Let a copy of this Order be sent to the Chief Secretaries of all these State forthwith. We make it clear that in the event, any officer or person is found to be violating these directions or not complying with them as afore-directed, we will be compelled to take coercive steps and pass such Orders as may be required in accordance with law without any further notice. The Committee should file its final Report positively before the next date of hearing. List this matter on 9th January, 2015, for further directions, compliance Report shall be submitted by all the concerned authorities. ,CP (Swatanter Kumar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

CORAM : HON’BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON’BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON’BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON’BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Present: Applicant: Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
Respondent No. 2: Ms. Alpana Poddar, Advocate
Respondent No. 4: Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy.
Dr. S.D. Singh, CEO Parks and Garden Society
Mr. Kush Sharma, Adv. for DDA
Ms. Puja Kalra, Adv. for South and North MCD
Ms. Savitri Pandey, Adv.
Mr. Balendu Shekhar, Adv. for EDMC
Mr. Sanjiv Verma, IAS, Director Environment
Mr. P.C. Meena, IAS, Administrator, HUDA
Mr. Mahavir Singh, HCS, Addl. Transport Commissioner
Dr. Yadav, Chief Engineer, ULB Haryana
Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO
Ms. Bano Deswal, AAG Haryana
Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. B.V. Niren and Prasouk Jain, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

		32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formaldehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforesated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



M.A. NO. 90 OF 2015 & M.A. NO. 132 OF 2015

IN

Original Application No.21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava and Mr. Salik Shafique (in OA 21/2014)
Respondent No. 1:		Ms. Panchajanjya Batra Singh, Advocate
Respondent No. 2 & 4:		Mr. Narender Pal Singh, Adv. along with Mr. Dinesh Jindal, LO (DPCC)
Respondent No. 5 :		Mr. Narender Hooda, Sr. Adv., Ms. Bano Deswal and Ms. Sukhmani Bajwa, Advs.
Respondent No. 7 :		Mr. D. Rajeshwar Rao, Adv. for Traffic Police
Respondent No. 8 :		Mr. Rajiv Bansal and Mr. Kush Sharma, Advs. For DDA
		Mr. Vikrant Kaushik, Adv. – Local Commissioner
		Mr. Charanjeet Singh, Adv. – Local Commissioner
		Mr. Praveen, Adv. – Local Commissioner
		Ms. Savitri Pandey, Adv. for the State of U. P.
		Mr. Ruchir Batra, Adv.
		Mr. Ardhendumauli Kumar Prasad, Adv. for MoTransport & MoUrban Department
		Ms. Puja Kalra and Mr. Harsha Peechara, Adv. for South and North MCD
		Ms. Puja Kalra, Adv. alongwith Mr. Meena, Addl. Commissioner for SDMC
		Mrs. Avnish Ahlawat with Mr. Nitish Singh, Adv. and Director U.D., Sh. Krishna. For GNCT, MoUD

Date and Remarks	Orders of the Tribunal
Item No. 08 February 17, 2015	<u>M.A. No. 132 of 2015</u> Notice. The Learned Counsel appearing for non-applicant accepts notice. We have heard the Learned Counsel appearing for parties. There is no objection to the impleadment. In fact the Tribunal has already passed orders in relation to control of air pollution in the area of Karol Bagh. In these circumstances, M.A. No. 132 of 2015 is allowed to the limited extent that the Association of Vayapar Mandal, Ajmal Khan Road, New Delhi is directed

		to be impleaded as Respondent party in the main Application No. 21 of 2014. With the above direction without prejudice and contention of the right and averments made in this application, M.A. No. 132 of 2015 stands disposed of. <u>M.A. No. 90 of 2015</u> We have heard the Learned Counsel appearing for the parties at length as well as the suggestions made by senior officers of the Authorities including Additional Commissioner and Chief Engineer of the South Delhi Municipal Corporation and other officers. The views of the market association have also been taken into consideration. Additional Commissioner, South Corporation submits that he would have to discuss the matter with the higher authorities of the Corporation as well as other department to submit before the Tribunal in respect of site and the time period that would be required for constructing the multi-level parking in Lajpat Nagar for traffic decongestion and free traffic flow so as to improve the air quality in that area. On his request, we grant time and direct the Delhi Urban Shelter Improvement Board which has already approved the temporary parking site for parking of vehicles till the multi-level parking is constructed in that area. We would be passing the detailed order only after these matters are clarified. However, in the meanwhile, we direct the South Delhi Municipal Corporation to mark the areas on the roads, that is, Veer Savarkar Marg, Firoz Gandhi Road and Shiv Mandir Marg with red line, where

	single parking would be permitted on these roads. The red line shall be marked on the both sides road of Veer Savarkar Marg and Shiv Mandir Marg while it will be on one side on Firoj Gandhi Road towards police station. The Corporation shall block the Central verge by placing Jersey Barriers, having a width of not more than two feet, end to end, while duly protecting the trees line on these roads in the central verge. There will be no space left in between. In other words the placing of the Jersey Barriers would begin from one end of the road to the other end of the road without break and at no point, intersection would be permitted. No Rickshaw and Hawkers would be permitted on the metalled road, as the right of the Hawkers has been permitted by the Hon'ble Supreme Court in the area beyond the Metalled Road in the case of <i>Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013</i>. In the event any vehicle is parked in the Central Verge or beyond the red line on any of these roads, the traffic police shall take a serious view of the matter and deal with the offender in accordance with law. Besides, this we make it clear that since such offenders add to the pollution of environment and degrade the air quality to the extent which is very injurious to human health, they should be liable to pay compensation in terms of Section 15 of the NGT Act, 2010. In fact, we have already determined the compensation at Rs. 1,000/- per vehicle in terms of our order dated 19th January, 2015. On behalf of the Board, the Learned Counsel

	appearing upon instruction from the Director, who is present in the Tribunal, has submitted that they would temporarily provide parking space in their land lying beside MCD Hospital, but the parking area would be under their control and would operate the parking facilities themselves. They record this and request that the police and all other concerned authorities be directed to encourage people to park their vehicles in the open land adjoining besides the M.C.D. Hospital. We make it clear that the Corporation will not be entitled to any right on this land and it is a concession by the board which the Tribunal appreciates. All the market Associations of Lajpat Nagar will fully co-operate in implementation of these directions. In the event of default, we will be compelled to pass orders totally prohibiting parking in this area. The Learned Counsel appearing for the Associations Federation submits that they would adhere to direction and in fact would employ temporary staff to encourage proper parking and to maintain free flow of traffic in that area, so as to completely reduce the emission to the minimum possible level for improving the air quality in that area. We accept this undertaking given by the market association federation. In every parking area the parking capacity shall be identified by the Corporation and it shall be electronically displayed as to how much space is available and how much space occupied and parking shall be regulated accordingly. The corporation submits that it would like to manage the parking in that area themselves through contractors or otherwise. We leave this to the

	discretion of the Corporation. However, in event of default and cars being parked beyond red line, the Corporation will take appropriate action against the contractors or the agencies appointed for this purpose. P.W.D. shall fully cooperate with the corporation for execution of these directions. According to the counsel appearing for the market association federation, it is submitted that a sum of Rs. 159 Crores has been paid by the residents and by the shopkeepers. This money according to them was paid only for parking development. However, according to the Learned Counsel appearing for the Corporation this amount was paid in furtherance to the Judgement of the Hon'ble Supreme Court of India in M.C. Mehta case and were for converting residential use to the commercial one and for one time parking charges and Rs. 159 Crores collected from the Lajpat Nagar, have not been exclusively spent for the development of parking in Lajpat Nagar but have been spent of all over Delhi. Let the Corporation inform the Tribunal as to how much amount of Rs. 159 Crores collected has actually been spent upon improving parking or carrying out any public related development in that area. We also permit the corporation to submit before the Tribunal, if they still want public to contribute more for construction of the multi-level parking facility etc. We direct the Joint Commissioner, Traffic, particularly, S.H.O., Lajpat Nagar and Traffic Inspector of Lajpat Nagar to ensure that these directions by the Tribunal are implemented without default and delay. We

	make it clear in the event of default, we shall hold the senior officer of all the public bodies and the Police Authority personally responsible. List this matter on 25th February, 2015 ,CP (Swatanter Kumar) ,JM (P. Jyothimani) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)



**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015,
M.A. NO. 200 OF 2015 & M.A. NO. 203 OF 2015)**

Present:	Applicant:	Appearance is not marked
Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate and Mr. R. N. Jindal, Director (S), MoEF	
Respondent No. 2 & 4:	Mr. Narender Pal Singh, Adv. along with Mr. Dinesh Jindal, LO (DPCC)	
Respondent Nos. 5:	Mr. A.K. Prasad, Adv.	
Respondent Nos. 6:	Mr. Rajiv Bansal, and Mr. Kush Sharma, Adv.	
Respondent Nos. 10:	Ms. Savitri Pandey, Adv.	
	Mr. Anil Grover, AAG of Haryana with Mr. Rahul Khurana, Adv.	
	Mr. Sibash Kabiraj, IPS, DIG Traffic & Highway	
	Mr. Chand Saim, Sr. Environmental Engineer (HSPCB)	
	Mr. V.K. Chawla, SEI Civil, HPGCL, PTPS	
	Ms. Puja Kalra and Mr. Harsha Peechara, Adv. for South and North MCD	
	Mr. A.D.N. Rao and Mr. Sudipto Sircar, Adv.	
	And Ms. Vaishali R.	
	Mr. Bhagmal, Addl. Gen. Manager, HSIIDC	
	Mr. Mukesh Gupta, Assit. Gen. Manager, HSIIDC	
	M.L. Ahuja, XEN Urban Local Bodies, Panchkula (Haryana)	
	Mr. H.R. Raheja, Chief Engineer, PWD, Haryana	
	Mr. A.K. Gulati, S.E. H.U.D.A, Faridabad (Haryana)	
	Mr. M.R. Sharma, S.E., MCG, Gurgaon (Haryana)	
	Mr. Ajay Kumar Singh, Adv., Mr. R.K. Kapila, Adv. and Ms. Shikha Roy, Adv.	
	Ms. Anu Tyagi, Adv., Local Commissioner	
	Ms. Zabeda Begeum Adv., PWD & Transport Dept.	
	Ms. Atishree Sood, Adv., Local Commissioner	
	Ms. J. Janani, Adv., Local Commissioner	
	Mrs. Avnish Ahlawat with Mr. Nilish Singh, Adv.	

	Date and Remarks	Orders of the Tribunal
	Item No. 17 March 04, 2015	The Learned Counsel appearing for the respective agencies submit that they will take clear instructions on implementation of the directions contained in the Order of this Tribunal dated 15th January, 2015. The officers of the

	Transportation and the PWD present submitted that all work with regard to regulation of traffic in Lajpat Nagar would be completed by Tuesday i.e. 10th March, 2015 and Reportted to the Tribunal. We record the undertaking and direct compliance thereof without fail. We direct the Secretary, PWD, NCT Delhi would call for a meeting immediately wherein the Joint Commissioner Traffic, the Commissioner North MCD, Officers of the PWD, DDA, CPWD and the market federation would be present and examine the proposal prepared by the traffic police for meeting the congestion of the traffic in Karol Bagh resulting in serious air pollution. We are informed that Corporation is proposing to build a Multi Level Car Parking at Shashtri Park. The Committee may also examine if there is any other space available where Multi Level Car Parking could be built. In the meanwhile, the traffic police shall completely enforce the Orders of the Tribunal particularly in relation to Karol Bagh, South Extension and Nehru Place. List on 10th March, 2015. ,CP (Swatanter Kumar) ,EM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Ranjan Chatterjee)

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

**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015 &
M.A. NO. 234 OF 2015)**

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava, Adv.
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate
	Respondent No. 2 & 4:	Mr. Narendra Pal Singh, Adv. and Mr. Dinesh, Adv.
	Respondent No. 3,5,6:	Mr. Ardhendumauli Kumar Prasad, Adv. Mrs. Avnish Ahlawat, and Mr. Nitish Singh, Adv. Mr. M.K. Sharma and Mr. R.R. Rasana, Adv. Ms. Savitri Pandey, Adv. for the State of U. P. Mr. Sanjeev Ailawadai, Adv. and Ms. Priyadeep, Adv. in M.A. Nos. 122/2015 and 2019/2015 Mr. I.K. Kapila, Mr. S.K. Pobbi, Ms. Shiksha Rai and Mr. A.K. Singh, Adv. In M.A. No. 200 of 2015 Mr. Balendu Shekhar and Mr. Vivek Jaiswal, Adv. Ms. Puja Kalra and Mr. Dhamendra Kumar, Adv. for South and North MCD Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. Mr. Rajiv Bansal, Mr. Kush Sharma and Ms. D. Ray, Adv. for DDA Mr. D. Rajeshwar, Adv. Mr. M. Yogesh Kaura with Mr. A. Santha Kumar, Adv. Mr. Arun Barroka, Mr. Jayesh Kumar, Mr. G.P. Bansee and Mr. Diwakar Aggarwal, Adv. Mr. Zubaida Begam, Adv. Mr. Raman Yadav, Adv. Mr. Rakesh K. Sharma, Inspector, Mr. Abhishek K. Sharma, ACP, Mr. Mahesh Kumar, SHO, Mr. S.K. Patil, ACP, Mr. Rishi, ACP, Mr. Sunder Kumar and Inspector Chauhan,

And

Present:	Applicant:	Mr. Sanjay Kulshreshtha,
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 7:	Mr. Rahul Choudhary, Adv.

Respondent No. 10:

Mr. M. Yogesh Kaura with Mr. Santha Kumar,
Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 08 & 09 March 16, 2015	Under the orders of the Tribunal the CPCB had been directed to assess the NCRs ambient air quality status, and the Board has in furtherance thereto carried out the studies and submitted a report The National Capital Region (for short ‘NCR’) is a unique example of interstate regional development planning for a region with NCT of Delhi as its core. This region covers an area of near 34,144 km. Nothing contrary to the case pleaded by the Applicants and as widely reported by the print media has come to the notice of this specialized body. On the contrary it brings on record an alarming situation of polluted ambient air quality in the NCT of Delhi. Just to notice a few, nitrogen dioxide was found to be beyond the prescribed value of 80 µg/m³ i.e. range of 4-367 µg/m³ on 145 occasions in Delhi on 24 hour basis. Particulate Matters (PM₁₀) of the monitoring locations, the value ranged from 14-948 µg/m³ against the prescribed limit of 100 µg/m³ on 538 occasions out of 545. In case of particulate matter PM_{2.5}, the samplings show value ranges from 30.41 to 1284 µg/m³ indicating that almost all of them exceed the NAAQS standard of 60 µg/m³. Carbon monoxide sampling showed the value ranged from 0.2 to 21.19 mg/m³ which exceeds the prescribed NAAQS standard of 2 mg/m³. In this report, it has also been noticed that ambient air quality during peak hours shows PM₁₀, PM_{2.5}, CO and Benzene exceeds the prescribed standards.

	At this stage we may also make a reference to a connected Application i.e. original application no. 95 of 2014 wherein Cardio Pediatric Surgeon, who moved a petition before the Hon'ble Supreme Court of India which is transferred to this Tribunal, has contended that the ambient air quality in most of the Metropolitan cities and even including Agra is so injurious to human health that it would adversely affect human foetus and newly born children between 1 to 5 years would be exposed to very high risk of developing respiratory health problems. Presence of pollutants in the ambient air quality of Delhi is a matter of concern for all stake holders. Human health is an integral facet of Right to life and thus must take precedence over all commercial and infrastructure projects. The principal of inter generational equity demands that all institutions, be it legislature, judiciary, executive, must make all possible endeavor to ensure proper air quality as it must pass on to its next generation if not improved but atleast, the environment that it has inherited from it ancestors. The scientific data undoubtedly indicates that the problem is very severe and if not checked the results would be drastic. Nobody can claim a right which will infringe upon or destroy the right to life. The Hon'ble Supreme Court of India in many cases has held that healthy, clean and decent environment is a mandate of Article 21 of the Constitution of India. Thus, strict enforcement of environmental provisions of law is the duty of all concerned including this Tribunal. We are pained to note that despite our repeated persuasive and mandatory orders the Authorities concerned have not

	risen to the occasion for taking proper and effective steps. The response lacks will and bonafides and exhibits callous attitude of shifting responsibility from one to other. This compelled us to pass an order on 10th March, 2015 resulting in issuance of show cause notice to the concerned Authorities of the State as to why an order of attachment and civil imprisonment in the terms of Order XXI of the CPC besides other actions that the Tribunal could take within the scheme and provisions of the National Green Tribunal Act, 2010 be not taken for non-compliance of the orders of this Tribunal which in any case is to be executed as a decree of the Civil Court. The Secretary, PWD appeared before us and assure to the Tribunal that within one week from today the steps would be taken. Though we hardly found any justification for non-compliance of the Orders and directions of the Tribunal, still on the assurance given by the Senior Officer of the NCT of Delhi, we would grant last opportunity to the NCT of Delhi and its Department and Police Authority to ensure the compliance of the directions contained in the various orders of the Tribunal. However, it would not exempt the Authorities from replying to the show cause notice issued by the Tribunal. Let the compliance report be submitted before the next date of hearing particularly in relation to Lajpat Nagar. We are also informed that temporary parking by Delhi Urban Shelter Board (DUSB) has not been operated as earlier agreed by the Board and directed by the Tribunal. We issue clear and unambiguous directions that the parking in that area shall be permitted forthwith. In the

	event of default the Director of the said Board shall be personally responsible rendering himself liable for an action in accordance with law under the orders of the Tribunal. The CPCB has also brought to our notice that it had inspected 15 old and 12 new buses of DTC that are plying on the roads of Delhi. Out of these, 12 new buses were found to be compliant with the prescribed emissions norms- while out of 15 old vehicles 9 were found compliant and 6 were found to be non-confirming to the prescribed standards. All the 6 buses mentioned in the report of CPCB shall forthwith be taken off the roads of Delhi. If these buses are found to be plying on the roads of Delhi the CEO of DTC shall be personally responsible for consequences for violating the Orders of the Tribunal. These buses however, would be subjected to the inspection by an Expert Team that would be appointed by the Tribunal and their operation would be permitted only after the Orders of the Tribunal. From the above scientific data it is clear that the presence of particulate matters and carbon in air needs to be checked. We have directed NCT Delhi to submit its view on various aspects to the Tribunal which has not been done so far. We direct the compliance to be made within one week from today without default. The Affidavit-cum-status Report shall be filed by the Secretary, NCT Delhi after holding a meeting chaired by the Chief Secretary of Delhi where all Departments, authorities, police should be directed to be present. This would deal with the compliance/non-compliance of each direction. We also direct the NCT Delhi to submit its view as to why all the Diesel (commercial or otherwise) vehicles plying in Delhi which are more than 10

		years old should not be taken off the roads and be not permitted from plying in the city. These views with scientific data should be submitted to the Tribunal, along with the exact number of Diesel vehicles which are more than 10 years old and their impact on ambient air quality. The direction in relation to Karol Bagh, Lajpat Nagar, South Ex. and Nehru Place shall be continued to be complied without default and delay, and a report shall be submitted by the Secretary even in that behalf. We make it clear that it should be brought before the Tribunal as to why the multi-level parking proposals which are pending for years before the Authority are not being implemented, reasons thereof and how they would be implemented in a time frame. Since some steps have been taken in Lajpat Nagar, we direct CPCB to take the ambient air quality samples at the same place where the samples were collected earlier on next Tuesday and Wednesday and submit analysis Report to the Tribunal. Comparative pre-existing data for the year 2014 should also be mentioned in that Report. The Applicant in Original Application No. 95 of 2014 is permitted to make a Power Point Presentation to the Secretary of MoEF, Chief Secretary Delhi, Chairman of CPCB and DPCC along with the other Sr. Most officers of the respective corporation, who shall remain present for the presentation. Let this be done on 7th April, 2015 on which date the case is also to be listed before the Tribunal. The State of UP, State of Haryana and State of Rajasthan all are directed to provide and fully cooperate with NCT Delhi for installation and effective operation of the

	weighing machines those already existing in their respective jurisdiction or are required to be installed under the Orders of the Tribunal. We reiterate our directions that overloaded vehicles would not be permitted to enter NCR Delhi. We also direct that in all the markets particularly Lajpat Nagar, Karol Bagh, South Ex., Chandani Chowk and other densely polluted markets the loading and unloading would not be allowed from 11:00 a.m. to 8:00 p.m. everyday. All persons filing M.A.'s shall pay requisite fees under the rules. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

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

Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF
2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER**

Original Application No.21 of 2014

Present:	Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava and Mr. Salik Shafique, Advts. Respondent No. 1: Ms. Panchajanja Batra Singh, Advocate for MoEF Respondent No. 2 : Ms. Alpana Poddar, Adv. Respondent No. 3: Ms. Puja Kalra, Adv. Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms. Arpita, Advts. for DDA. Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv. Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic) Ms. Neha Kurian, Ms. Pallavi Talware, Mr. Aditya N. Prasad, Mr. Amit Verma, Mr. Atif and Mr. Sahil Sangar- Local Commissioners Ms. Savitir Pandey, Adv. for State of UP Mr. Narender Pal Singh, Adv. for R-2 & 4 Mr. I.K. Kapka, Ms. Shikha Rai, Mr. A.K. Singh, Mr. S.K. Pabbi, Advts. For Karol Bagh Trader Federation Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjay Kumar, EE (P) Shri Ruchir Batra, Adv. for Lajpat Nagar Traders Association Mr. Chirag M. Shroff, Adv. for NCT, Delhi Ms. Sakshi Popli, Adv. for NDMC Mr. Ravinder Kumar, Adv. for NOIDA and Gr. NOIDA Authority Mr. Pinaki Mishra, Sr. Adv., Mr. Rahul Mehra, Ms. Zubdabegum for GNCTD Mr. Avnish Ahlawat, Adv. for DUCIB, DTC, Transport Dept. & GNCT Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. for State of Haryana Mr. Janjeev Ailawali and Ms. Priya Dup, Adv. Mr. Ajwal Khan, Adv. for Mr. Beopul Mandal, Mr. Deepak Khada Ria, Adv. Mr. B.S. Jaiswal, IPS, Dept. Traffic, Southern Range Mr. Surya Kant Patil, ACP of Traffic, Southern Range Insp. Shailendra S. Chauhan, TI/HKG

Present:	Applicant:	Mr. Sanjay Kulshretha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha, Advs.
	Respondent No. 1:	Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC
	Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
	Respondent No. 7 :	Ms. Savitri Pandey, Adv. for State of U.P. Mr. Mukesh Kumar, Adv. for NHAI Mr. N. Yogesh Kanna and Mr. A. Santha Kumar, Adv. for state of Tamil Nadu. Mr. Chirag M. Shroff, Adv. for NCT Delhi.

Remarks	
Item No. 01 & 02 April 10, 2015	The Learned Counsel appearing for the state NCT, Delhi has submitted that the Government of NCT, Delhi has taken a policy decision to implement all the directions of the Tribunal to ensure that people of Delhi get cleaner air to live and lead better life environmentally. The Learned Counsel appearing for the Union of India also states that the Government is committed for better environment. For the statements made above, and in any case, which have been widely reported, that there is definite concern and initiative being taken by the Central as well as State Government to clean the air of Delhi and to provide better ambient air quality for a healthy and decent environment to the residents of Delhi, we record our appreciation for this concern and initiative being taken by the respective Governments. We also express a pious hope that in the interest of public health and environment, the directions now being issued by the Tribunal would be implemented without default and delay.

	The Learned Counsel appointed as Commissioners by the Tribunal submitted they have visited the sites (entry point of Delhi) and have prepared their report. They pray for time to file the report during the course of the day. Liberty granted. We also direct the Learned Local Commissioner to file collective report in regard to the recommendations that they wish to make for better implementation of the directions of the Tribunal. Let the copies of the inspection report be furnished to all the Learned Counsel appearing in this case for Government and Public Authority and state, who should file their response within one week from today. The Learned Local Commissioners are directed to visit the entry points whenever they wish to. Police shall provide them due assistance and help to enable them to execute commission without obstruction and inconvenience. Copy of the report be given to all the Learned Counsel appearing for various State authority irrespective whether they are party or not. It is scientifically established fact that the pollutants of ambient air quality are from vehicular pollution, dust pollution, pollution by burning and emission from industry. Today we have decided to deal with this case in phases to prevent and control of air pollution on the one hand and pass directions for restoration of ambient air quality. The matter pertaining to dust emissions from building construction, transportation C&D waste, mining and allied activity is being dealt. Development in all fields is an essential feature of a developing country. If the stake holders carry out the

	development activity in fragrant violation as to the principal of sustainable development the results can be disastrous. They may have serious adverse impact not only on environment and ecology of the area but even would raise serious issues of public health. Where construction activity is one of the very significant facet of development there it is one of the serious contributor of air pollution by generating dust. Dust could be generated purely from construction activity, transportation of construction material, construction debris waste and by carrying on mining activity. Dust emission from these activities attain dangerous dimensions when its carried out rampantly and in a unregulated manner. The stack holders for short economic gains do not take environmental preventive and protections measures prescribed under laws exposing not only their workers but the entire population of the area to variety of diseases some of them are even life threatening. Despite the fact that the Benches of the Tribunal have expert members from diverse fields of environment. The Tribunal had adopted approach of consulting the stack holders while dealing with the issues of air pollution in Delhi and the steps that are required to be taken for improving the air quality. The Committees were constituted and even deliberations issued vide orders dated 24th November, 2014 and 01st December, 2014 in regard to controlling the polluting and improving the ambient air quality in Delhi. In the Order dated 01st December, 2014 we had issued a set of directions particularly dealing with the requirements of prevention and control of air pollution resulting from emission of dust in the atmosphere. All the directions

		contained in that order shall be read and construed as part of this Order and directions issued hereinafter. The Expert Committee constituted by the Tribunal had collected samples from 36 different sites in Delhi, Haryana and Uttar Pradesh. The analysis reports indicate significant exceeding parameters. For instance nitrogen dioxide as per the prescribed standard is to be $84 \mu\text{g}/\text{m}^3$ was found to be between $146\text{-}208 \mu\text{g}/\text{m}^3$ in Faridabad in Delhi. The particulate matter as against permissible of PM $10 \mu\text{g}/\text{m}^3$ were found to be $484\text{-}276\text{-}948 \mu\text{g}/\text{m}^3$ in Delhi and Faridabad and the surroundings areas. The particulate matters with reference to PM 2.5 is excessively violative in Delhi and has gone upto 1284 as against prescribed standard of $60 \mu\text{g}/\text{m}^3$. Carbon dioxide in Delhi is found to be $7.81 \mu\text{g}/\text{m}^3$ against the prescribed value of $2 \mu\text{g}/\text{m}^3$. Similar data was also taken note by the Tribunal in its order dated 16th March, 2015. Nitrogen dioxide was found to be $367 \mu\text{g}/\text{m}^3$ against the prescribed value of $80 \mu\text{g}/\text{m}^3$ on 140 occasions on 24 hours basis. The particulate matters PM 2.5 ranged between 30.41 to $1284 \mu\text{g}/\text{m}^3$ against the NAAQS value of $60 \mu\text{g}/\text{m}^3$. Carbon monoxide and benzene both were found to be exceeded. This persuaded to pass the certain directions in that behalf. The same should also read as part of this order. It has been widely reported that massive construction activity is going on without taking any precautionary and preventive measures. There are no covers scaffolding no housing of road to reduce dust dispersal. The construction materials are not covered, the workers are not provided with gadgets to prevent inhaling of dust particles particularly fine particles.

		Thus there is dire need to immediately pass appropriate directions for preventing and controlling the pollution of air from dust and to improve ambient air quality particularly of NCR of Delhi. We are not oblivious of all the difficulties that may come in the way of the bonafide purchaser and the builders for the restrained orders passed by on 16th March, 2015. But it is not only legal but even a social and corporate responsibility of all the builders to carry on construction activity or mining activity strictly in accordance with the prescribed rules. They must ensure that for small economic gains they do not expose the public including their purchasers and workers to serious diseases and adversely affecting the public health at large. The constitutional right to life, decent and clean environment has to take precedent over the right of an individual to carry on business activity. Thus we pass the following directions: (i) No Corporation, authority or instrumentality of the State vested with the power of sanctioning plans, drawings for construction of any commercial, residential and even construction of small plots would impose a clear condition that sanction of plans is subject to the builder, owner or person seeking sanction would strictly comply with the directions contained in this order as well as the MoEF Guidelines, 2010 while raising construction. (ii) Such Authorities shall forth with issue notices to all the builders raising any kind of construction that they should strictly adhere to and comply with the directions contained in this order of the

		Tribunal as well as MoEF Guidelines, 2010 is relation to precautions required to be taken while carrying on construction. (iii) Every builder or owner shall put tarpaulin on scaffolding around the area of construction and the building. No person including builder, owner can be permitted to store any construction material particularly sand on any part of the street, roads in any colony. (iv) The construction material of any kind that is stored in the site will be fully covered in all respects so that it does not disperse in the Air in any form. (v) All the construction material and debris shall be carried in the trucks or other vehicles which are fully covered and protected so as to ensure that the construction debris or the construction material does not get dispersed into the air or atmosphere, in any form whatsoever. (vi) The dust emissions from the construction site should be completely controlled and all precautions taken in that behalf. (vii) The vehicles carrying construction material and construction debris of any kind should be cleaned before it is permitted to ply on the road after unloading of such material. (viii) Every worker working on the construction site and involved in loading, unloading and carriage of construction material and construction debris shall be provided with mask to prevent inhalation of dust particles.

		(ix) Every owner and or builder shall be under obligation to provide all medical help, investigation and treatment to the workers involved in the construction of building and carry of construction material and debris relatable to dust emission. (x) It shall be the responsibility of every builder to transport construction material and debris waste to construction site, dumping site or any other place in accordance with rules and in terms of this order. (xi) All to take appropriate measures and to ensure that the terms and conditions of the earlier order and these orders should strictly comply with by fixing sprinklers, creations of green air barriers. (xii) Compulsory use of wetjet in grinding and stone cutting. (xiii) Wind breaking walls around construction site. (xiv) All concerned Government that is state of NCT, Delhi state of U.P., state of Rajasthan and Haryana shall ensure that mining activity if otherwise permitted in accordance with law and orders of the Court is strictly regulated and carry out in a manner prescribed under rules and to ensure that least dust has emitted into air/atmosphere and all steps are taken to prevent the same. (xv) The Corporation, DDA, HUDA, NOIDA, Greater NOIDA Authority and all other Authorities and instrumentalities of the state and its department shall make all efforts to increase the 'tree cover' area by planting large number of trees of various species depending upon the quality content of soil

		and other natural attendant circumstances. (xvi) All the builders who are building commercial, residential complexes which are covered under the EIA Notification of 2006 shall provide green belt around the building that they construct. All Authorities shall ensure that such green belts are in existence prior to issuance of occupancy certificate. (xvii) The state Government of NCT, Delhi, Haryana, Uttar Pradesh, state of Rajasthan, all Public Authorities in these states, Corporations, Development Agencies and all other Authorities persons and Departments of the state Government, Pollution Control Boards and Police Authorities shall ensure complete and expeditious compliance of all these directions with immediate effect. a. The Station House Officer, Environmental Engineers, Engineers of the Corporation and of all the Regulatory and Development Authority responsible for sanctioning of plan, granting consent and issuance of completion certificate would be personally and strictly responsible for compliance of these directions in the area/areas that fall under their jurisdiction. In the event of default they shall be liable to pay compensation for such environmental degradation or for pollution of ambient air quality in NCR, Delhi particularly. b. If any person, owner and or builder is found to be violating any of the conditions stated in this order and or for their non-compliance such

		person, owner, builder shall be liable to pay compensation of Rs. 50,000/- per default in relation to construction activity at its site and Rs. 5,000/- for each violation during carriage and transportation of construction material, debris through trucks or other vehicles, in terms of Section 15 of the NGT Act on the principle of Polluter Pay. Such action would be in addition not in derogation to the other action that the Authority made take against such builder, owner, person and transporter under the laws in force. c. The Government of NCT, Delhi shall take immediate step to enhance the capacity of its plant for reutilisation and recycling of C&D waste. It is undisputed on record that NCR, Delhi is generating nearly 4000 MT of C&D waste every day and the capacity of the plant is not able to utilised even 10% of such generated waste. All builders shall ensure that C&D waste is transported in terms of this order to the site in question only and due record in that behalf shall be maintained by the builders, transporters and NCR of Delhi. d. We make it clear that even if constructions have been started after seeking Environmental Clearance under the EIA notification 2006 and after taking other travel but is being carried out without taking the preventive and protective environmental steps as stated in this order and MoEF guidelines, 2010, the State Government,

		SPCB and any officer of any department as aforesaid shall be entitled to direct stoppage of work. In relation to Lajpat Nagar, we make it clear that the cement Jersey Barriers would be placed at both the ends of the road. There shall be no crossing permitted from one end to the road and another end of the road. In other words, there would be no intersection. We are informed that the parking space as provided by the Board is able to accommodate nearly 550 cars which would have provided a great relief to the traffic congestion in Lajpat Nagar. This arrangement would continue in terms of the order of the Tribunal till further order. Police Authorities present before the Tribunal, shall ensure that all the directions issued by the Tribunal in regard to the de-congestion of traffic thus resulting in minimum emissions from vehicular pollution should be carried out strictly without default. The CPCB shall place on record ambient air quality analysis pre orders and post orders. We are informed that data of ambient air quality for 2007 to 2009 have been placed on record. The CPCB shall prepare a comparative table and DPCC shall fully assist in that behalf. Reference in the air quality report shall be also made regarding existing climatic condition at the time of collection of sample. Needless to mention that Delhi Metro is carrying on huge construction activities in Delhi, its public benefit and public importance cannot be denied but still they are required to ensure that they do not cause any air pollution. Therefore we direct Delhi Metro or any other Government or private construction agency carrying on massive construction project that they will strictly adhere to construction activities in terms of this

	order and the guidelines contained in MoEF guidelines, 2010. The Learned Counsel appearing for the State of Haryana, State of U.P., NOIDA and Greater NOIDA submit that they will ensure that the directions of this order and that of 16.03.2015 will be complied with forthwith. The MCD, South will file an affidavit by the next date of hearing positively stating as to which place in Lajpat Nagar they would build the multi level parking. Chief Engineer would be present before the Tribunal on the next date of hearing. List this matter on 17th April, 2015 at 02:00 PM. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015 & M.A. NO. 317 OF
2015)
AND
Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava
and Mr. Salik Shafique, Advs.
Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for
MoEF
Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms.
Arpita, Advs. for DDA.
Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. Rahul Mehra, Adv. and Mr. Zubeda Begum,
standing counsel for GNCTD, Civil
Ms. Savitri Pandey and Ms. Azma Paven, Adv.
Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Adv.
Mr. Narender Pal Singh, Adv. and Mr. Dinesh
Jindal, LO, DPCC

	Date and Remarks	Orders of the Tribunal
	Upon mentioning April 13, 2015	This matter taken upon mentioning The Learned Counsel appearing for the NCT, Delhi, MoEF, other Ministries and even other Learned Counsel appearing for state stakeholders raised a contention is that the prohibitory orders of the NGT in relation to the 10 years old diesel vehicles are causing serious concern and practical difficulties to the Government and Authorities. It is specifically being stated that NCT, Delhi has regards for entire provisions of the order and the concerned

		Government has taken policy decision on order of the Tribunal. However, they seek some time to enable the authority to effectively comply with the directions therein. We appreciate the initiative and responses of the Government of Delhi and other concerned state Governments to provide cleaner air and better environmental life. We find some substance in the submission made on behalf of various Government and authorities and the stakeholders. We may notice that by our orders dated 28th November, 2014, 01st December and even passed subsequently we had repeatedly asked the state Government, Central Government and other public authorities to submit their suggestions on data furnished for preventing and controlling air pollution and places for restoring of ambient air quality of Delhi. Unfortunately we received no suggestion. In the larger public interest and to ensure public utility services and keeping in mind the submissions made by the Learned counsel particularly for NCT, Delhi who shall mainly get adversely affected due to impounding of diesel vehicle of more than 10 years old and to ensure that the common citizen of Delhi does not suffer in day to day life, we pass the following directions :- 1. These direction are to be read in conjunction with and not in the derogation of the earlier orders passed by the Tribunal except to the limitation and extent stated hereinafter. a. The Ministry of Surface Transport, MoEF, Urban Development, Ministry of Petroleum, Union of India, NCT, Delhi and other authority concerned should submit to the Tribunal

		within two weeks from today, their complete reasoned and scientifically supported views Inter alia but mainly on the following views by way of affidavits to be filed by the person not less than Additional Secretary, in the case of Central Government, and Secretary of the concerned department in NCT, Delhi and public authorities. i. Age of all vehicles to be permitted to run in NCT, Delhi with reference to all sources of energy/fuel. ii. Cap on the No. of vehicles to be registered in the NCR, Delhi with reference to sources of energy/fuel. iii. Incentive to be provided to the members of public who adopt pool commutation/travel. iv. Benefits or concessions that can be provided to the transferor/transferee of the vehicle which are prohibited to run in NCR, Delhi, on the roads of NCT, Delhi. v. It should be kept in mind that vehicles are prohibited because of high density of traffic and greater pollution are likely to be shifted to the places of lesser density of vehicles and lesser pollution because of the expanse of air available and openness available there. vi. Concession/benefits which would be available to the person who scrap his vehicle as a result of any or all of the

		restriction in terms or order of the Tribunal and law in force. vii. Public transport vehicles to be provided on priority at all the places which have high commercial activities, markets or industrial areas. viii. Wherever parking area or multi-storied parking have been provided rationalisation of parking charges to encourage people to park in such parking areas and not on the main road. ix. Imposition of higher registration and other charges including congestion charges particularly in relation to the owner of the vehicle who possesses for himself and for family more than one vehicle. b. Research to be conducted to find out suitable converters for emissions from vehicles and beneficial use of energy for running cars. c. Steps are required to be taken for ensuring quality of emissions released directly by Government major projects like Indraprastha, Bhadra and Raj Ghat, Thermal Power Project and even other major plants run by the Government and instrumentalities of the Government within the standards prescribed by law. 2. Suggestions as to how the air pollution in Delhi can be checked immediately and the method by which ambient air quality of Delhi can be restored to clean

	air standards. We may notice that during the hearings in the last 6 months we had asked for the suggestions and comments on all these issues without much result. We do hope that all the Government and concerned stakeholders will respond on these issues without default and delay within the prescribed time. During the period of two weeks that we have provided to all the concerned authorities there shall be impounding of vehicles on account of age. In furtherance to our earlier orders we make it clear that we are varying our directions only to this limited extent. However, all vehicles shall be subject to prescribed pollution check and other environmental norms. Suggestions shall also be given by the Central Pollution Control Board and Delhi Pollution Control Committee together. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

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

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A. NO. 414/2015, M.A. NO. 778/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015,
M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A.
NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO.
475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO.
545/2016, M.A. NO. 564/2016, M.A. NO. 567/2016, M.A. NO. 578/2016, M.A. NO.
690/2016 & M.A. NO. 708/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present: Applicant:

Mr. Raj Panjwani, Sr. Adv., Salik Shafique and Ms. Divya Sharma, , Adv.

Respondent No. 1:

Dr. Sanjay Kulshrestha, Applicant in person

Ms. Panchajanya Batra Singh, Adv. For MoEF & CC

Mr. Rajiv Bansal, Mr. Kush Sharma and Mr. Keshav Datta, Adv.

Mr. D. Rajeshwar Rao, Mr. Charajeet Singh, Adv. for PWD, Delhi Police and Transport Deptt.

Mr. Naginder Benipal, Adv. for Mr. Anil Soni, AAG

Mr. Joydeep Mazumdar, Mr. Rohit Dutta and Mr. Parijat Sinha, Adv.

Mr. Rajul Shrivastava, Adv. MPPCB

Ms. Sakshi Popli, Adv. NDMC

Mr. Soumayajit Pani, Adv. for State of Odisha

Mr. Guntur Prabhakar, Mr. Prashant Mathur and Mr. Guntur Pramod Kumar, Adv.

Mr. Raman Yadav, Adv.

Mr. Atul Jha Adv. for State of Chattisgarh

Mr. Devraj Ashok, Adv. for State of Karnataka

Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Adv.

Mr. Balendu Shekhar and Mr. Akshay Abrol, Mr. Eishan Bahuguna, Adv. for EDMC

Mr. Pinky Anand, ASG, Mr. Rajesh Ranjan, Ms. Somya Rathore and Mr. Balendu Shekhar, Adv. for Ministry of RTH and Ministry of Heavy Industries, MoEF

Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Mr. Devendernath Tirpathi, Adv. for Andaman & Nicobar Administration

MR. Edward Balho, Ms. Elix Gangmel and Mr. K. Luikang Michael, Adv.

Mr. Rudreshwar Singh and Mr. Gautam Singh, Adv.

Ms. Puja Kalra, Adv. for NDMC, SDMC

GNCTD

Mr. Pragyan Sharma and Mr. Ravi Kantt, Advs. for State of Mizoram
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Sapam Biswajit Meitei and Mr. S. Vijayanand, Advs. for State of Manipur
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs.
Mr. Abhishek Yadav, Adv. for State of U.P.
Mr. Suryanarayan Singh, AAG
Mr. Narnedner Pal Singh, Adv. Ms. Guneet Khehar, Adv. for Mr. Tarunvir Singh Khehar, Adv. for GNCTD
Mr. Jogy Scaria, Adv. for State of Kerala and SPCB
Mr. Raj Kumar, Adv. Ms. Alpna Poddar, Adv. and Mr. Bhupinder Kr. LA., CPCB
Mr. Mukesh Verma, Adv. for MPCB
Ms. Priyanka Swami, Adv. for Nagar Nigam Ghaziabad Mr. Arun K. Gupta, LO
Mr. P. Venkat Reddy and Mr. Prashant Kr. Tyani, Advs. for State of Telengana
Mr. Dileep Poolakkot, Adv. for State of Goa
Mr. Vibhav Misra and Mr. Saumya Misra, Advs. for DTC
Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs. for NOIDA and Greater NOIDA
Mr. Jayesh Gaurav, Adv. for JSPCB
Ms. Priyanka Sinha and Mr. Shridhar Sawrup, Advs. for State of Jharkhand
Ms. Varsha Poddar advs. for State of Tripura
Ms Nandini Gore and Ms. Khushboo Bari and Mr. Bipin Das, Advs. for Tata Motors Ltd.M. A. No. 172 of 2016
Mr. Anil Grover AAG and Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Narender Pal Singh, Adv. and Mr. Dinesh Jindel, LO, DPCC
Mr. Sandeep Narain and Ms. Khushboo, Advs.
Ms. Diksha Sharma, Adv. for Mr. Muzzaffr Khand s/o Ayyab Khan
Mr. Shiv Mangal Sharma, AAG, Mr. Adhiraj Singh and Mr. Sarurabh Rajpal, Advs. for Rajasthan PCB
Mr. R. Rakesh Sharma and Mr. M. Samy Adv. for State of Tamil Nadu and TNPCB
Mr. Gaurav Kr. Bansal and Ms. Antima Bazaz, Advs. In MA 264/2016
Mr. Dinesh Garg and Mr. Dhananjay Garg, Advs. For State of Uttarakhand
Mr. K.T.S. Tulsi, Mr. Raj Kamal and Ms. Pallavi Malhotra, Advs.
Mr. V.K. Shukla, Adv.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs.
Mr. Karan Grover, Adv. for NHAI
Ms. Taruna A. Prasad, Adv. for MoEF
Mrs. Rani chhbhra and Ms. Priyanka Samy, Advs. In MA 358/2016 and 545/2016

	Date and Remarks	Orders of the Tribunal
	Item Nos. 06 to 09 July 20, 2016 HA + A	<u>MAIN MATTERS</u> In continuation of our order dated 18 th July, 2016 we pass the following further directions for appropriate and effective implementation of the directions issued. 1. We make it clear that deregistration of the diesel vehicles, more than 10 years old shall be complied

	Item Nos. 06 to 09 July 20, 2016	with effectively and without default. However, the deregistration authorities are directed to start deregistration with reference to the oldest of the vehicles, in other words at the first step the vehicles which are more than 15 years old would be deregistered and then gradually other vehicles would be deregistered from 15 years to 10 years respectively. 2. All the vehicles which are deregistered in Delhi/NCR would not be permitted to ply in Delhi/NCR. However, the authorities will issue NOC for such vehicles to be registered outside the Delhi/NCR. We further clarify that in terms of the orders of the Tribunal every State has to identify areas where the dispersion of the air is higher and vehicular density is least, if the States have not done it so far we grant last opportunity to the States and the Union Territories to identify such areas and put them on the respective websites. The RTO, Delhi will issue NOC for transfer of these vehicles only for such areas which are identified by the States. 3. The diesel vehicles which are more than 15 years old and are BS I or BS II compliant shall be scraped and no NOC will be issued for transfer of the vehicles. 4. The vehicles which possess national permit, but are covered under the directions of the Tribunal will also not be permitted to ply in Delhi/NCR. However, they would be permitted to by-pass Delhi and follow the routes directly connecting Haryana and Rajasthan or vice-versa. For instance the heavy

	Item Nos. 06 to 09 July 20, 2016	vehicles are being permitted under the orders of the Tribunal from Panipat and Rewari without entering Delhi. 5. We hereby direct NCT/Delhi to take immediate steps for improving and expanding the mass transportation system. It should introduce proper buses which should preferably be run from destination to destination thus making the travel much easier for the commuters. The buses should be of different kinds, including providing buses to the metro stations. All these buses should be CNG buses or hybrid or electric buses. 6. The DDA is hereby directed to provide space to the DTC and the Police for the purpose of parking of Vehicles, including impounded vehicles. We direct the Chief Secretary, Delhi to take up a meeting with the Commissioner of the Delhi, Vice-Chairmen of the DDA and all the Commissioners of the respective Municipal Corporations, NDMC and Delhi Cantonment Board. Meeting will be held within 1 week from today and the report be submitted to the Tribunal. This would identify the land already given by DDA to the authorities for the purpose of parking to DTC or other authorities for parking of running buses as well as impounded vehicles, it would further identify the sites which are required to be provided for that purpose. The scraping benefit including benefit in purchase of new cars, is under the consideration of the Ministry of Heavy Industries. Let the final view in that behalf be taken

	Item Nos. 06 to 09 July 20, 2016	and the same should be widely published to provide new incentives to the public to scrap their old vehicles. It has been termed by the Ministry as “Scraping Policy”. Learned counsel appearing for the NCT/Delhi has brought to our notice that to orders is needed effectively implement the directions of the Tribunal in relation to the use of pressure horns and motor bikes being driven with intolerable sound which are violative of the prescribed norms. Besides challaning the vehicles under the Motor Vehicles Act, action is also to be taken for violation of the conditions of the registration that is violating the original conditions of the vehicle in which it was registered and the fine provided there is more than Rs. 2000, besides challaning the vehicles for traffic offence. We find that the traffic police should implement the directions and take the above action which is in accordance with law, with a greater vigour and sincerity. We further direct that for generating the undue intolerable sound, in violation of the law, also results in noise pollution and is covered under the prescribed norms in the Noise Pollution Rules which have been enacted under the Environment (Protection) Act, 1986, one of the Scheduled Act of the National Green Tribunal Act, 2010. Therefore we direct that in addition to other actions in accordance with law, such offenders would also be liable to pay Environmental Compensation of Rs. 5,000 per violation on the basis of “Polluter Pays Principle”. Let this fine be also collected by the Traffic police and be deposited in a separate account that would be maintained by the Delhi Police or the NCT Delhi as the Chief Secretary of Delhi may decide. In the event of default of the payment of the Environmental

	Item Nos. 06 to 09 July 20, 2016	Compensation, the traffic authority is at liberty to approach the Tribunal by issuing notice to such violator to be present before the Tribunal for the offence. List these matters for hearing on 28th July, 2016. In the meanwhile, liberty is granted to the States to file their response. <u>M.A. No. 414 of 2015</u> In view of the order passed by us above this Application does not survive for consideration. Accordingly, M.A. No. 414 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 778 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 778 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1086 of 2015</u> Nobody is present on behalf of the Applicant non was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 1086 of 2015 stands disposed of without any order as to costs. <u>M.A. No. 1313 of 2016</u> In view of the order passed by us above this

	Item Nos. 06 to 09 July 20, 2016	Application does not survive for consideration. Accordingly, M.A. No. 1313 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 156 of 2016</u> This is an application with reference to the exemption to be granted to vintage and antique vehicles from the orders of the Tribunal dated 26th November, 2014. Learned counsel appearing for the main Applicant and NCT of Delhi submit that they have some objections in regard thereto. List this matter for hearing on 28th July, 2016. <u>M.A. No. 172 of 2016</u> At the request of the Learned counsel appearing for the parties the matter is adjourned to 28th July, 2016. <u>M.A. No. 211 of 2016</u> Nobody is present on behalf of the Applicant; none was present on the previous date. This Application is dismissed for default of appearance. Accordingly, M.A. No. 211 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 253 of 2016</u> We have heard the Learned counsel appearing for the parties. The Application is allowed limited to the extent that vehicles would be permitted to be registered with the RTO office of Delhi but these buses would not run in NCT of

	Item Nos. 06 to 09 July 20, 2016	Delhi but would ply between its destination point to Kathmandu. To that extent this Application is allowed subject to just exception. Accordingly, M.A. No. 253 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 268 of 2016</u> This Application is filed for postponement of the date of hearing of the matter. The matter is already heard. Therefore this Application does not survive for consideration as having become infructuous. Accordingly, M.A. No. 268 of 2016 stands disposed of without any order as to costs. <u>M.A. Nos. 358 of 2016 and 545 of 2016</u> Prayers in these Applications to run Buses from Meerut to Bulandsahar via Hapur. We allow the prayers of the applicants. But we make it clear that these buses will not enter into Delhi, that is Ghaziabad, Faridabad, Gurgaon, Greater NOIDA and Sonipat. Accordingly, M.A. Nos. 358/2016 and 545/2016 stand disposed of without any order as to costs. <u>M.A. No. 360 of 2016</u> We have heard the Learned counsel appearing for the parties. We clarify that the environmental compensation would be imposed on slab basis. We find that the prayer made in this Application is just and fair and if the offending construction in plot upto 100sq.mt. the

	Item Nos. 06 to 09 July 20, 2016	environmental compensation would be Rs. 10,000/-, if the offending construction is in more than 100 sq. mtr. But upto 200sq.mt., the environmental compensation would be Rs. 20,000/-, if the offending construction is in a plot of more than 200 sq. mt. but less than 500sq. mt. the environmental compensation would be Rs. 30,000/-, while the offending construction is in a plot area of more than 500 sq.mt. the environmental compensation would be Rs. 50,000/- as already directed by the orders of the Tribunal. Wherever the constructed area is more than 20,000 sq. mtr. The environmental compensation would be Rs. 5 Lakhs. This rate will operate prospectively. Accordingly, M.A. No. 360 of 2016 stands disposed of without any order as to costs. <u>M.A. No. 406 of 2016</u> We have heard the Learned counsel appearing for the parties. We direct that all the Authorities in NCT of Delhi including DDA, NDMC, All Municipal Corporation of Delhi and Delhi Cantonment Board that they would ensure that there is no burning of any kind of waste in open or otherwise and for every default occurrence the person would be liable to pay Rs. 5000 /- as environmental compensation to the Officer of the respective Agencies. Even the matter could be reported to Delhi Police also. Accordingly, M.A. No. 406 of 2016 stands disposed of without any order as to costs.

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

**Original Application No. 21/2014
And**

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay, Adv. Ms. Upama Bhattacharjee and Mr. Saumitra Jaiswal, Adv.
Mr. V. Shekhar, Sr. Adv, Mr Arun K. Shukla, Mr. Sumit Sinha and Mr. Shashank, adv for UFLEX
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv. for State of Uttarakhand
Mr. Raman Yadav, Adv. for GDA
Mr. Amit Agarwal, Ms Asha Basu, Adv. for WBPCB
Dr. Dipankar Saha Addl. Director Central Pollution Control Board
Mr. I. K. Kapila, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv
Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Adv. for State of West Bengal
Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA
Mr. A.K. Prasad and Mr. Shashank Saxena, Adv. for MoPNG
Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
Ms. Sakshi Popli, Adv. and Pritaka, Adv for NDMC
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA for Central Pollution Control Board
Mr. Mukesh Verma and Mr. Pawan Kr. Shukla, Adv.
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Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Rajiv Bansal, Sr. Adv, Mr. Kush Sharma and Mr. Lalit Mohan, Adv. for Delhi Development Authority
Mr. Archit Sharma, Ms. Satamita Ghosh and Mr. Rahul Singhal, Adv.
Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, , and Ms. Simran Jeet, Adv. For State of Sikkim & Pollution Control Board
Dr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
Mr. Anchit Sharma, Mr. Adit Pratap Singh and Mr. Dipankar Wadhwa, Advs.
Mr. Om Prakash, Adv. for Railways
Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoineithiam Advs. For Nagaland.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam.
Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
Mr. Gautam Singh and Mr. Sohoeab Alam, Advs. for State of Bihar
Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. Mr. Rajkumar Maurya for East Delhi Municipal Corporation
Mr. Surekh Kant, Adv for Mr. Ashish Rana, Adv
Mr. Shiv Mangal Sharma (AAG), Ms. Shikha Sandhu & Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & G Indira, Advs. for UT of Admanan and Nicobar Administration
Mr. Naginder Benipal, PPCB
Dr. Sandeep Singh, Adv., Mr. Utkarsh Sharma and. for State of Uttar Pradesh
Mr. D. Rajeshwar Rao, and Mr. Abhinav Srivastava, Adv. for Delhi Police with Mr. Vijay Singh DCP Traffic
Ms. Puja Kalra, Adv. for SDMC
Mr. Keshav Chandra, Secretary, GNCTD, Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee, Dr. M P George, Sr. Secretary, Mr. Dinesh Jindal, L.O. Delhi Pollution Control Committee, Dr. Anil Kumar, Director, GNCTD

Date and Remarks	Orders of the Tribunal
Item No. 01 to 05 November 11, 2017 SS & RP	We have heard the Learned counsel appearing for various stakeholders, applicants including the NCT Delhi, Central Pollution Control Board, Delhi Pollution Control Committee and the Learned counsel appearing for all the Pollution Control Boards of the State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab. It is fairly conceded before us by the Scientists of the Central Pollution Control Board and Delhi Pollution Control Committee and all the officers from the different boards and the officers of the NCT Delhi that rain would result in automatic fall in pollutants level of the ambient air quality. They state that the sprinkling of water thus is one of the best means to reduce the pollutants in case of environment emergency. They also submit that diesel vehicles and two wheelers/two stoke engines are much

	Item No. 01 to 05 November 11, 2017 SS & RP	more serious contributors of air pollution rather than the petrol operated cars. According to the Central Pollution Control Board, vehicular pollution contributes nearly 20% of the total air pollution load in NCT Delhi and out of these 20% the 30% contributions is by two wheelers. Accordingly to them firstly the two wheelers are much more in number than other class of vehicles and secondly they emit serious pollutants like Carbon Monoxide and Hydro Carbon which are not emitted or negligibly emitted by the petrol vehicles. It is further stated that the structural construction activities, carriage of construction material and burning of waste and crop residue are the other major components of air pollution in Delhi and NCR. The Learned counsel appearing for the NCT Delhi has submitted that in furtherance to the recommendation of Graded Response Action Plan (GRAP) and the judgment of the Tribunal, the Government of NCT Delhi is committed to implement odd-even scheme and it has also been directed by the Hon'ble High Court of Delhi in its order dated 09th November, 2017. He further submits that there should be a greater cooperation and coordination between the various Local Authorities, Executing Departments and Police for effective implementation of the directions issued by the Tribunal as well as the notification issued by the Central Government requiring NCT Delhi to implement GRAP. It is further stated that under GRAP, the odd and even scheme should be implemented automatically whenever PM_{10} and $PM_{2.5}$ increases $500 \mu g/m^3$ and $300 \mu g/m^3$

Item No. 01 to 05 November 11, 2017 SS & RP	respectively for 48 hours. In other words, it is a measure which has to be taken as a part of complete mechanism provided for prevention and control of ambient air quality not only when there is environmental emergency or values are very severely bad. The precautionary principle places obligations upon all the Authorities including the Statutory Boards to anticipate extent and damage by adversely and highly polluted ambient air quality and should take precautionary and remedial measures at the appropriate stage and not wait for the crises to come. It is correctly said that prevention and precaution is a better remedy than dealing with the situation posing crises. It is emphasized by the Learned counsel appearing for the NCT Delhi that they are very sincere and would implement scheme in regard to the above notification and directions of the Tribunal and would not leave it optional. The compliance of law, particularly, where it serves the public interest and more so right to decent and clean environment which is a fundamental right of citizen. All other contentions must tilt in favour of achieving this goal rather than bringing excuses which would cause environmental degradation and damage to public health. The principle of inter-generational equity requires the present generation and particularly the State and its instrumentalities to ensure compliance with the directions which are aimed at protecting environment and public health. In this background and particularly the fact that the Scientist and Expert from various Boards, Organizations and Departments are add-idem that we

	Item No. 01 to 05 November 11, 2017 SS & RP	proceed to pass the following directions:- 1. The NCT Delhi would be free to implement ‘Odd and Even’ scheme as declared by it, but strictly subject to the condition that we state hereinafter. In terms of the notifications, orders of the courts, Tribunal and GRAP, as and when the PM₁₀ and PM_{2.5} crosses values of 500 µg/m³ and 300 µg/m³ respectively, it shall be mandatory for NCT Delhi and all its Government Departments to implement odd and even without default and it shall not be optional for any officer of the Government or institutions to avoid these directions and non-compliance of notification. There shall be no exemption to any person, officer and individual and the two wheelers from the ambit and scope of odd and even scheme. They will be applied with equal rigour to all cases and all vehicles. However, the vehicles which are CNG operated would be saved from the implementation of odd and even scheme. The only vehicle which will be granted exemption are the vehicle which are used for emergent services like vehicles carrying municipal solid waste, Ambulance, Fire Brigades and Vehicles meant for carrying on emergent repair of electricity, other public services and the Government Vehicles of the dignitaries that has been granted exemption by the Grovernment. Every entry point of Delhi shall be properly

	Item No. 01 to 05 November 11, 2017 SS & RP	managed by concerned department of NCT Delhi and the Police to ensure that there are no traffic jams on the borders of NCT of Delhi. All the State Governments i.e. State of Rajasthan, State of Haryana and State of Uttar Pradesh shall depute special force at the borders of NCT Delhi to ensure that no inconvenience is caused and congestions are avoided with aim to control air pollution even at those points. 2. All the private transporters who are granted permits by the respective State Governments and NCT of Delhi shall during this emergency period and implementation of odd-even scheme would provide CNG buses in co-ordination with the Department of Transport and NCT of Delhi for carriage of passengers from different parts of NCT of Delhi to the central points, free of charges in discharge of their corporate social responsibility as they are the beneficiaries of the State's Largesse. It will be free for NCT of Delhi Department to issue such direction and demanding requisite number of buses keeping in view the fleet of buses for which permission has been granted and to which it will be in proper proportions. 3. The DTC shall make every effort to ensure that all the buses it procures are CNG buses and the same are utilized for public transportation during the operation of odd-even scheme. 4. Since it is commonly agreed and all the parties and stakeholders are ad-idem that sprinkling of water is

	Item No. 01 to 05 November 11, 2017 SS & RP	a substantial solution for reducing the pollution level in the ambient air quality in emergent situation, we direct that the same shall be implemented without default and delay in future and even during the coming week unless it rains by tomorrow or day after as per the reports of the metrological department. But we make it clear that no economic constraints ground will be entertained as a defense to sprinkling of water if the pollution levels rise beyond PM_{10} - $700 \mu g/m^3$ and $PM_{2.5}$ - $400 \mu g/m^3$. We constitute a team of :- - Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport; - Mr. K.K. Dhaiya, Spl. Commissioner, Transport; - Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee and Spl. Secretary, Environment; - Dr. Deepankar Shah, Additional Director, Central Pollution Control Board; - Dr. Prashant Gargava, Additional Director, Central Pollution Control Board; - Dr. M.P. George, Scientist 'D', Delhi Pollution Control Committee Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport will be the Chairperson of the Committee. 5. This committee shall, from today onwards, collect the data of ambient air quality which shall be tested at least for 8 parameters including PM_{10}, $PM_{2.5}$,

Item No. 01 to 05 November 11, 2017 SS & RP	Carbon Monoxide, Ozone, Ammonia, SO₂, NO₂ and Lead. A due compilation of at least two samples a day during the peak hours shall be maintained by this Committee continuously for a period of 10 days. We direct all these samples shall be analyzed at the laboratory of the Central Pollution Control Board and IIT Delhi. 6. Besides collecting the data from the ambient air quality stations analyzed by the authorities/ Central Pollution Control Board, ambient air quality samples would be collected and subjected to analyze in both these laboratories and report submitted to the Tribunal on the next date of hearing. 7. Despite direction of the Tribunal and the orders of the NCT of Delhi, still construction activities have been noticed in various complexes. It is brought to our notice that NHAI has been carrying on heavy earthmoving and construction activity at the crossing of turning of CWG Complex near Akshardham, construction work is going on at the NBCC project at Kidwai Nagar and this fact is not disputed. We issue notice to show cause to both these organizations as to why the exemplary fine/ cost be not imposed upon them and also why the Tribunal should not direct the officer responsible for violation of the Tribunal to be sent to civil imprisonment in accordance with the provision of Order 21 read with Section 19 and 26 of the National Green Tribunal Act, 2010. Reply to these notices should be filed before the next date of

	Item No. 01 to 05 November 11, 2017 SS & RP	hearing. It shall be duty of the NCT of Delhi and DPCC to serve the notices upon the concerned officers/ contractors of these organizations. 8. It is also pointed out that there are 13 Thermal Power Plants with a capacity of 11,000 MW in the radius of 300 km of NCT of Delhi. They are serious contributors of pollutants to the ambient air quality in Delhi. They contribute 80% of the Sulphate and 50% of Nitrogen to the receptor concentration. This adds to increase of pollutants of PM₁₀ and PM_{2.5} besides adding other pollutants to the ambient air quality. If emissions from these plants are controlled and or they are upgraded so as to meet strictly in accordance with the prescribed standards it could largely impact the improvement of ambient air quality in NCT of Delhi. 9. We direct the above Committee to submit a report in this behalf to the Tribunal and what precautionary and preventive measures should be taken. The order of the Tribunal dated 08.11.2017 and 09.11.2017 shall apply mutatis-mutandis to this order and all the directions contained in this order must be strictly adhered to. 10. All the corporations and public authorities from all the States of NCT of Delhi and surrounding areas shall ensure that there is no structural construction activity carried on till the next date of hearing. 11. We have already passed directions in relation of burning of waste and crop residue burning. By the next date every State should submit the report in

	Item No. 01 to 05 November 11, 2017 SS & RP	that behalf including all the local authorities of NCT of Delhi. 12. All the corporations and the DDA is hereby directed to post special forces on the land fill sites (municipal solid waste land fill sites) to ensure that there is no fire of any kind from any of these sites. If any fire of the waste burning is brought to the notice of the Tribunal particularly in relation of the land fill sites, every officer incharge concerned under whose jurisdiction that the area shall fall would be liable to be proceeded against in accordance with the law besides imposition of environmental compensation in terms of Section 15 of the National Green Tribunal Act, 2010 upon the said Authority or Corporation. 13. We direct NCT of Delhi to immediately reconsider its decision with regard to the parking charges. We are unable to appreciate what environmental impact it is likely to have particularly when the directions of the Tribunal with regard to construction, providing of parking areas, ensuring that those parking areas and parking buildings, multiple parking are used for parking in a regulatory manner and parking on the road sides is entirely discouraged. We do not have hesitation in noticing that corporation and the State authorities have failed to comply with those directions. The steps must be taken in a holistic manner to achieve the objective of protection of environment creating undue burden on a common man as no solution to environmental issues.

	Item No. 01 to 05 November 11, 2017 SS & RP	14. If cars are permitted to be registered and plied in Delhi then they must be provided with the parking space. For instance, the multiple parking at Sarojni Nagar remains empty which is undisputed fact and all the vehicles are permitted to be parked on the roads where some contractors collect money and add to congestion of traffic. All the Government Authorities, Corporations and NDMC should take immediate and effective steps to rectify these discrepancies and ensure better co-ordination between the Corporations, Government, Police, Departments and the contractors who are engaged for parking purposes. 15. We also direct that in consultation with the Metrological Department, the Chief Secretary of Delhi would take an emergent meeting as and when there is a likelihood of severe pollution of the ambient air quality and definitely before it reaches the values of environmental emergency. 16. The sample of ambient air quality shall be collected and analyzed particularly immediately after the rain if it so happens and report submitted to the Tribunal. 17. We have already clarified that the industries dealing with essential services and goods eatable, subject to inspection by the officers, would be permitted to operate if their emissions are within the prescribed limits and they are non-polluting. 18. The hybrid cars shall also stand exempted. 19. We do not contribute to the principle stated at the

Item No. 01 to 05 November 11, 2017 SS & RP	bar on behalf of NCT Delhi that the volatile ambient air quality value should be for a period of 48 hours or on 48 hours basis. It is bound to be more damaging to human health if a person or public at large is compelled to breath or even for 12 hours the values of which remain within 500 µg/m³ to 700 µg/m³ as against the prescribed value of 100 µg/m³. Thus we direct that 48 hours may be relevant for determining average pollutant values, but not for taking emergent measures particularly when it cross 700 µg/m³. 20. The Learned counsel appearing for NCT Delhi has informed that the site has already been provided for keeping the vehicles which are impounded/seized by the Police being 10 years old vehicles in the case of diesel and 15 years old in the case of petrol. 21. We direct the Commissioner of Police, Delhi to ensure that vehicles which are violating the above directions of the Tribunal should be seized and compliance report be submitted to the Tribunal on the next date of hearing. List these matters on 14th November, 2017 the date already fixed. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim)

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

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, 1341/2017, 1342/2017, 1343/2017, 1344/2017, 1345/2017, 1346/2017, 1347/2017, 1348/2017, 1349/2017, 1350/2017, 1351/2017, 1356/2017, 1357/2017, M.A. No. 1358/2017, M.A. No. 1361 of 2017, M.A. No. 1366 of 2017, M.A. No. 1367 of 2017, M.A. No. 1371 of 2017, M.A. No. 1375/2017, M.A. No. 1380/2017, M.A. No. 1384/2017, M.A. No. 1386/2017, M.A. No. 1387/2017, M.A. No. 1390/2017, M.A. No. 1391, M.A. No. 1393/2017 and M.A. No. 1397/2017)

And

Original Application No. 95/2014

(M.A. No. 1156 of 2016)

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

Original Application No. 179 of 2016

(M.A. No. 1388/2017 & M.A. No. 1389/2017)

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:

Applicant :

Mr. Sanjay Upadhyay Ms. Upama Bhattacharjee, ms. Sharmishtha Shukla and Mr. Saumitra Jaiswal, Advs.

Mr. Jaskirat Singh and Mr. Puneet Sharma, Adv for (M.A. No. 1393/2017)

Ms. Neelima Tripathi, Adv (M.A. No. 1390 and 1391/2017)

Mr. Shivam Bajaj. And Mr. Shobit Chauhan, Adv in M.A. No. 1384

Ms. Divya Kapur and Ms. Shqel Trehan and Mr. Ruhabh Sharma Advs.

Mr. Vijay Sondhi, Ms. Cauvery Birbal Advs. for Toyota

Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and Ms. Ritwick Nanda, Adv

Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee

Mr. Arjun Syal and Mr. Ishan Bisht, Advs.

Mr. Sumeer Sodhi, Mr. Arjun Nanda Advs. in M.A. 1301 OF 2017

Mr. Neil Hildreth and Mr. Rahul Jain, Advs.

Mr. S. M. Ali Special Sec, (env), Dr. M. P. George,

Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Advs. for State of Uttarakhand

Mr. Raman Yadav, Adv. for GDA

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Mr. Shuvodeep Roy and Mr. Sayooj Adv. for State of Assam
 Mr. V. K. Shukla, Adv for State of M.P.
 Mr. Pradeep Misra, Mr. Daleep Dhyani, Advs. for UPPCB
 Mr. Sumit Kishore, Adv. for PNGRB
 Ms. Priyanka Sinha, Adv.
 Dr. Vijendra Mahndiyan, SGSC for State of UP
 Mr. Rajul Shrivastava, Adv. for MPPCB
 Mr. Amit Dubey and Mr. Karan Chawla, Advs.
 Mr. Aman Shukla, Mr. S.S. Rebello, Advs.
 Mr. Gaurav Dubey, Adv.
 Mr. Ajay Marwah for HPPCB
 Mr. D. K. Thakur, AAG for State of Himachal Pradesh
 Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv for UPPCB
 Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Advs. for DTC
 Mr. Devraj Ashok, Adv.
 Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Advs.
 Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Advs. for State of West Bengal
 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
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 Ms. Sakshi Popli, Adv. for NDMC
 Mr. Rakesh Sharma Mr. V. Mowli, and Mr. Naveen Raj Advs. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas, Advs. for State of Tripura
 Mr. Anil Shrivastav, and Ms. Sujaya Bardhan and Mr. Rituraj Biswas, Advs.
 Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA for Central Pollution Control Board
 Mr. Mukesh Verma, Adv. for MPCB
 Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. R.S. Suri, Sr. Adv. and Mr. Varun Khanna, Adv.
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeep Mishra, Advs. for GNCTD
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Lalit Mohan and Ms. Malvika, Advs for Delhi Development Authority
 Mr. Archit Sharma, Ms. Satamita Ghosh and Mr. Rahul Singhal, Advs.
 Ms. Aruna Mathur, Mr. Avneesh Arputham and Ms. Anuradha Arputham, , and Ms. Simran Jeet, Advs. For State of Sikkim & Pollution Control Board
 Dr. Abhishek Atrey, Adv. for Ministry of Environment, Forest and Climate Change
 Ms. Yogmaya Agnihotri, and Ms. Prity, Advs.for CECB
 Mr. Tarveen Singh Nanda, Mr. Anchit Sharma and Mr. Satumita Ghosh, for Delhi Cantonment Board
 Mr. Soumyajit Pani and Mr. Chittaranjan Singh, Adv for State of Odisha,
 Mr. Om Prakash, Adv.
 Mr. Nishe Rajen Shonker, Adv. for State of Kerala.
 Mr. Parag Tripathi, Sr. Adv., Mr. R.S. Suri, Sr. Adv and MR. Abeer Kumar, Adv.
 Mr. Jayesh Gaurav, Adv.
 Ms. Hemantika Wahi and Ms. Puja Singh Advs.
 Dr. Sandeep Singh and Ms. Priyanka Swami, Adv. for State of UP
 Mrs. Rani Chibber and Ms. Priyanka Sony, Advs.
 Mr. Jogy Scaria, Adv., Ms. Beena Victor, Mr. Reeghan S. Bal, Ms. Mrianda Solaman Advs. for Kerala State Pollution Control Board
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoinethiam Advs. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam.

Mr. Amit Sibal, Sr. Adv., Mr. Aashish Gupta, Mr. Saurabh Rath and Mr. PSS Bhargava, Advs.
Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
Mr. Gautam Singh and Mr. Sohoeab Alam, Advs. for State of Bihar
Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. R.K. Maurya, Advs. for East Delhi Municipal Corporation
Mr. Pragyan Pradip Sharma, Adv
Mr. Prakash Kr. Singh and Ms. Risha Kapoor, Advs.
Mr. Ashish Negi for PPCB
Mr. S.A. Zaidi and Ms. Mansi Chahal, Advs. in M.A.
Mr. Debarshi Bhuyan Adv. for State of Goa and PCB
Mr. Shiv Mangal Sharma (AAG), Ms. Shikha Sandhu & Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
Ms. Prity, Adv.
Ms. Priyanka Ghorawat, Adv.
Mr. A.R. Takkar, with Mr. Amarjeet & Ms. Shriya Takkar, Advs. for Ambica Steel Ltd.
Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & G Indira, Advs. for UT of Admanan and Nicobar Administration
Ms. Priyanka Sinha, Adv. for State of Jharkhand
Dr. Sandeep Singh, Adv., Mr. Utkarsh Sharma and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
Mr. D. Rajeshwar Rao and Mr. Abhinav Srivastav, Adv for Delhi Police
Ms. Alpana Poddar and Mrs. Preeti Goyal, Advs.
Ms. Puja Kalra, Adv.
Mr. Ankur Chhibber and Mr. Nitish Negi, Advs.
Mr. Gautam Dhamija, Adv.
Mr. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr. Nawani, Assismand Engineer
Mr. Rajneesh Bhuj, Mr. Raj Kishan Gaur, Mr. Rahul Sharma and Mr. Tarun Aggarwal, Advs.
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar, Mr. Sandeep Mishra Advs.
Mr. Ajay Kumar Misra, Sr. Adv., Mr. Vandil Misha and Ms. Anuradha D. Mishra, Advs.
Mr. Y.D. Sharma, Adv.
MR. Krishna Menon, Mr. Gautam Bhanja and Mr. Daniya Nayyar, Advs.
Mr. Pinaki Misra, Sr. Adv. and Mr. Manoj Kumar and Ms. Geeta Das, Adv.
MS. Somya Rathore, Advs.
Mr. Naginder Benipal, Adv. for PPCB
Mr. Pinaki Misra and Mr. Mayank Das, Advs. for NBCC
Ms. Sugandama Batra, Adv.
Mr. Arun K. Sinha, Advs.
Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 08-12 November 17, 2017 SS & JG	Having heard the Learned Counsel appearing for the parties and keeping in view the reports submitted by the Central Pollution Control Board and Delhi Pollution Control Committee as well as the information provided by the Learned Counsel appearing for the parties, it is clear that there has been considerable improvement in the ambient air quality of NCT of Delhi, therefore we pass the following directions:

	Item No. 08-12 November 17, 2017 SS & JG	1. The prohibitory directions issued by the Tribunal vide its previous two orders particularly in relation to construction activity would stand vacated. 2. All the other directions in relation to emission from the industries, burning of waste and burning of crop residue and emissions from the vehicles shall continue to be enforced on the basis of precautionary principle. We make it clear that the prohibition on entry of heavy vehicle trucks which has been lifted by the administration of the State would not be interfered by the Tribunal, but this should be properly regulated direction in this behalf contained in the main judgment of the Tribunal in the case of Vardhman Kaushik Vs. Union of India & Ors. and subsequent orders shall be strictly adhered to . 3. It has been fairly demonstrated that sprinkle of water does bring down the levels of pollutants in the ambient air. This was tried by the administration at ITO where the values after sprinkling of water stood reduced to 106 $\mu\text{g}/\text{m}^3$ as opposed to 300 $\mu\text{g}/\text{m}^3$ and 500 $\mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$. Similarly was the state in relation to the PM_{10}. Thus, we direct all the concerned governments of NCR particularly, the Government NCT of Delhi and other State concerned to ensure that such steps are taken in future without any hesitation in the interest of environment and public health at large. 4. We direct NCT of Delhi, State of Rajasthan, State of Haryana, State of Uttar Pradesh and State of Punjab

	Item No. 08-12 November 17, 2017 SS & JG	to file within two weeks from today complete action plan based with reference to and based upon GRAP, orders of the Hon'ble Supreme Court of India and orders passed by this Tribunal in this case and in all subsequent orders. This action plan should have a direct nexus to the levels of pollution as indicated in the said report and judgment once the pollution level of PM_{2.5} and PM₁₀ increase 300 µg/m³ and 500 µg/m³ respectively. The steps for preventing and controlling the Air pollution should automatically come into play and should not depend upon the decision of the Government Officers in any of the States. Let the Chief Secretaries of NCT of Delhi and all other States file a report along with the affidavit with the action plan so prepared and as approved by the Tribunal shall come into force automatically on the parameter being excessive ranging for sever to hazardous. Upon filing of such action plan, the Tribunal shall issue further directions as may be necessary. 5. The Eastern and Western Express highway have already been permitted and are hereby permitted to continue their construction work but all construction activity should take all preventive and precautionary steps to ensure that they do not generate pollution by dust which is beyond the prescribed limits. 6. The Central Pollution Control Board, Delhi Pollution Control Committee and every State Pollution Control Boards shall file ambient air

	Item No. 08-12 November 17, 2017 SS & JG	quality analysis before the Tribunal on monthly basis and would supply copy thereof to the respective governments, local authorities and management authorities and put up on their websites to enable the concerned authority to take effective steps as for the action plan to prevent and control the air pollution as a threshold rather than permitting it to be hazardous for the environment and public health. We make it clear if the action plan is not filed before the Tribunal within two weeks from today as directed above, we will be compelled to pass coercive order including the imposition of exemplary cost. All the State Governments, Pollution Control Board, Central Pollution Control Board and NCT Delhi should have complete preparedness for the coming eventualities when the parameters of ambient air quality would be severe or hazardous. <u>M.A. No. 1384 of 2017</u> Issue Notice to the non-applicants by Registered Post/Acknowledgement due and Dasti as well. Notice be issued today itself. Notice returnable on 21st November, 2017. <u>M.A. No. 1380 of 2017</u> This application is allowed subject to just exception. The applicant is permitted to intervene in the main application. Rest other prayers shall be considered in the main application.

	Item No. 08-12 November 17, 2017 SS & JG	With the above directions M.A. No. 1380 of 2017 stands disposed of. No order as to cost. <u>M.A. No. 1387 of 2017</u> Nobody is present on behalf of application. This application is dismissed for default of appearance. <u>M.A. No. 1390 of 2017 and M.A. No. 1391 of 2017</u> Both these applications are disposed of as not pressed at this stage. The M.A. No. 1390 of 2017 and M.A. No. 1391 of 2017 stand disposed of accordingly. <u>M.A. No. 1386 of 2017</u> The Learned Counsel appearing for the NCT Delhi submits that they will take serious note on the content of this application and take action in accordance with law without further delay. Let copy of the application be furnished to the Learned Counsel appearing for the NCT Delhi during the course of the day. Action in furtherance thereto should be taken as expeditiously as possible. With the above directions M.A. No. 1386 of 2017 stands disposed of without any order as to cost. <u>M.A. No. 1393 of 2017</u> We have heard the Learned Counsel appearing for the parties. The contention raised on behalf of the applicant is that there are shopkeepers who are living above their shops and they should be permitted to park cars not in multi-level parking provided for the customers, but on the road in front of their shops.

	Item No. 08-12 November 17, 2017 SS & JG	We find this request not only opposed to the environment protection but is without any substance as well. It is conceded case before us that the Sarojni Nagar Market which has been constructed by New Delhi Municipal Council and it has been constructed at a very high expenditure with the capacity of 800 cars at a time, however this has remained empty for years. The shop owners as well as the customers coming to market and of parking their cars on the metal roads causing heavy traffic congestion. Nobody is willing to park car in the parking lot. The contractors of the New Delhi Municipal Council with a aim of making money at the cost of environment and causing pollution by traffic congestions even prevent people from parking their cars in the parking lot. Huge investment is made by the public authorities is being wasted on the one hand while on the other serious air pollution resulting from the congestion traffic on the other. It leads to undue burning of petrol and diesel takes time of the persons coming to Sarojni Nagar Market and causes traffic jam. In this view of the matter we pass the following directions:- 1. The New Delhi Municipal Council shall depute staff at the designated multi-level car parking which will operate the same for 24 hours a day. 2. No car would be permitted to park on the metal road of Sarojni Nagar particularly in front of market of the Sarojni Nagar market. 3. All cars would be directed to be parked at multi-level car parking without default for which no excuses would be entertained by the enforcing

	Item No. 08-12 November 17, 2017 SS & JG	authorities. 4. We direct the Traffic Police, Delhi Police force and the Corporation enforcement department of the Counsel to be present continuously for a period of two weeks from Monday i.e. 20th November, 2017 and ensure that these directions are carried out without default. Any person who park its cars on the metal road at Sarojni Nagar in front of market would be liable to pay environmental compensation of Rs. 5,000/- per incident. This will be in addition to the traffic challan that the concerned authorities would enforce in accordance with law. Open area should be declared as no parking and tow-away zone. 5. All contracts of the market shall be terminated. They shall be only to park in the car parking. 6. We direct New Delhi Municipal Council to consider sympathetically and objectively if the residents could be charged differential parking fee than the customers of market. We leave to Council to notify road by whom for parking charges. With the above directions M.A. No. 1393 of 2017 stands disposed of without any order as to cost. <u>M.A. No. 1397 of 2017</u> In view of the order already passed in Original Application No. 21 of 2014 this application is disposed of as not pressed. The M.A. No. 1397 of 2017 stands disposed of. No order as to cost.

	Item No. 08-12 November 17, 2017 SS & JG	<u>M.A. No. 1388 of 2017 and M.A. No. 1389 of 2017</u> These applications are disposed of as not pressed. Thus M.A. No. 1388 of 2017 and M.A. No. 1389 of 2017 stand disposed of. No order as to cost. <u>Main Matter</u> List these matters on 21st November, 2017. Copy of this order be furnished dasti. ,CP (Swatanter Kumar) ,JM (Dalip Singh) ,JM (Dr. Jawad Rahim) ,EM (Bikram Singh Sajwan)

Item No. 01

Court No. 1

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

Original Application No. 773/2018

Metro Transit Private Limited

Applicant(s)

Versus

South Delhi Municipal Corporation & Ors.

Respondent(s)

Date of hearing: 26.02.2020

CORAM: **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**
 HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
 HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER

For Applicant(s): Mr. S. Shriram, Advocate

ORDER

1. This order is being passed in continuation of order dated 27.09.2019. The issue for consideration is the remedial action against encroachments on roads by illegal parking in view of higher vehicular emissions on account of unregulated illegal parking adding to the air pollution and impacting public health.
2. The Tribunal, vide order dated 23.10.2018, directed the Ministry of Transport, Government of India, to examine the matter in the light of available and any fresh expert opinion and furnish an action taken report on or before 31.03.2019.
3. On the last date i.e. 27.09.2019, the Tribunal further reviewed the matter and observed:

“3. It is not clear why the Ministry of Transport has failed to furnish any report inspite of order of this Tribunal, violation of

which is a criminal offence. Thus, this default may require taking of coercive measures but before doing, so we grant last opportunity to the Secretary, Ministry of Transport, Government of India to comply with the order and furnish a report by e-mail at judicial-ngt@gov.in within one month from today failing which further coercive measures may have to be taken personally against the Secretary, Ministry of Transport, Government of India to enforce the rule of law."

4. In pursuance of the above, a letter has been filed by the Ministry of Road Transport & Highways dated 21.10.2019 stating as follows:

"2. In view of the above it is submitted that MoHUA is already in the process of developing a methodology for the study through UMTC. The draft final report on Urban Carrying Capacity for Transport Infrastructure has also been circulated by MoHUA for comments. This Ministry has conveyed its support to MoHUA for the draft final report for Faridabad and way forward for assessment of carrying capacity for rest of 101 non-attainment cities. A copy of this Ministry letter dated 17th October 2019 is attached.

*3. It is also submitted that Indian Road Congress (IRC) which is an apex body of Engineers and professionals in the Country, has framed IRC 106-1990 "**Guidelines for capacity of Urban Roads in plain areas**". Technical Committees in IRC (H-8 Committee) deals with matter related to Urban roads, Streets and Transport. This Committee comprises of members from various organization such as Academic, Research, Govt. Department and representatives of Contractors and Consultants. The present committee was constituted vide IRC OM dated 22nd June, 2018 (copy enclosed). This Ministry vide letter of even no. dated 18.10.2019 has requested IRC to expedite finalizing the recommendation in respect of Guidelines for Capacity of Urban Roads in plain areas on priority."*

5. The above stand is hardly of any assistance in dealing with the serious problem of encroachment on roads by illegal parking and causing of higher vehicular pollution impacting public health. Response of the Ministry shows apathy and lack of concern which can hardly be appreciated. This Tribunal expects responsible behavior from the officers dealing with the matter which is clearly missing as shown by proceedings of the matter.

6. Having regard to the seriousness of the issue and repeated failure of the authorities in properly responding to the orders of this Tribunal, we direct the concerned Joint Secretaries of Ministry of Road Transport & Highways as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB to remain present in person after acquainting themselves fully on the subject. It is made clear that any default will result in coercive measures being taken by this Tribunal personally against the concerned Joint Secretaries including stopping their salary.
7. A copy of this order be sent to the concerned Secretaries of Ministry of Road Transport & Highways as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB by e-mail for compliance.
8. The applicant may furnish a set of papers to the concerned Secretaries of Ministry of Road Transport & Highways as well as Ministry of Housing and Urban Development, Govt. of India and Member Secretary, CPCB and file an affidavit of service within one week.

List again on 17.04.2020.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

Siddhanta Das, EM

February 26, 2020
Original Application No. 773/2018
AK

M.A. NO. 90 OF 2015 & M.A. NO. 132 OF 2015

Original Application No.21 of 2014

IN THE MATTER OF:

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava and Mr. Salik Shafique (in OA 21/2014)
Respondent No. 1:		Ms. Panchajanjya Batra Singh, Advocate
Respondent No. 2 & 4:		Mr. Narender Pal Singh, Adv. along with Mr. Dinesh Jindal, LO (DPCC)
Respondent No. 5 :		Mr. Narender Hooda, Sr. Adv., Ms. Bano Deswal and Ms. Sukhmani Bajwa, Adv.
Respondent No. 7 :		Mr. D. Rajeshwar Rao, Adv. for Traffic Police
Respondent No. 8 :		Mr. Rajiv Bansal and Mr. Kush Sharma, Adv.
		For DDA
		Mr. Vikrant Kaushik, Adv. – Local Commissioner
		Mr. Charanjeet Singh, Adv. – Local Commissioner
		Mr. Praveen, Adv. – Local Commissioner
		Ms. Savitri Pandey, Adv. for the State of U. P.
		Mr. Ruchir Batra, Adv.
		Mr. Ardhendumauli Kumar Prasad, Adv. for MoTransport & MoUrban Department
		Ms. Puja Kalra and Mr. Harsha Peechara, Adv. for South and North MCD
		Ms. Puja Kalra, Adv. alongwith Mr. Meena, Addl. Commissioner for SDMC
		Mrs. Avnish Ahlawat with Mr. Nitish Singh, Adv. and Director U.D., Sh. Krishna. For GNCT, MoUD

Date and Remarks	Orders of the Tribunal
Item No. 08 February 17, 2015	<u>M.A. No. 132 of 2015</u> Notice. The Learned Counsel appearing for non-applicant accepts notice. We have heard the Learned Counsel appearing for parties. There is no objection to the impleadment. In fact the Tribunal has already passed orders in relation to control of air pollution in the area of Karol Bagh. In these circumstances, M.A. No. 132 of 2015 is allowed to the limited extent that the Association of Vayapar Mandal, Ajmal Khan Road, New Delhi is directed

	to be impleaded as Respondent party in the main Application No. 21 of 2014. With the above direction without prejudice and contention of the right and averments made in this application, M.A. No. 132 of 2015 stands disposed of. <u>M.A. No. 90 of 2015</u> We have heard the Learned Counsel appearing for the parties at length as well as the suggestions made by senior officers of the Authorities including Additional Commissioner and Chief Engineer of the South Delhi Municipal Corporation and other officers. The views of the market association have also been taken into consideration. Additional Commissioner, South Corporation submits that he would have to discuss the matter with the higher authorities of the Corporation as well as other department to submit before the Tribunal in respect of site and the time period that would be required for constructing the multi-level parking in Lajpat Nagar for traffic decongestion and free traffic flow so as to improve the air quality in that area. On his request, we grant time and direct the Delhi Urban Shelter Improvement Board which has already approved the temporary parking site for parking of vehicles till the multi-level parking is constructed in that area. We would be passing the detailed order only after these matters are clarified. However, in the meanwhile, we direct the South Delhi Municipal Corporation to mark the areas on the roads, that is, Veer Savarkar Marg, Firoz Gandhi Road and Shiv Mandir Marg with red line, where

	single parking would be permitted on these roads. The red line shall be marked on the both sides road of Veer Savarkar Marg and Shiv Mandir Marg while it will be on one side on Firoj Gandhi Road towards police station. The Corporation shall block the Central verge by placing Jersey Barriers, having a width of not more than two feet, end to end, while duly protecting the trees line on these roads in the central verge. There will be no space left in between. In other words the placing of the Jersey Barriers would begin from one end of the road to the other end of the road without break and at no point, intersection would be permitted. No Rickshaw and Hawkers would be permitted on the metalled road, as the right of the Hawkers has been permitted by the Hon'ble Supreme Court in the area beyond the Metalled Road in the case of <i>Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013</i>. In the event any vehicle is parked in the Central Verge or beyond the red line on any of these roads, the traffic police shall take a serious view of the matter and deal with the offender in accordance with law. Besides, this we make it clear that since such offenders add to the pollution of environment and degrade the air quality to the extent which is very injurious to human health, they should be liable to pay compensation in terms of Section 15 of the NGT Act, 2010. In fact, we have already determined the compensation at Rs. 1,000/- per vehicle in terms of our order dated 19th January, 2015. On behalf of the Board, the Learned Counsel

	appearing upon instruction from the Director, who is present in the Tribunal, has submitted that they would temporarily provide parking space in their land lying beside MCD Hospital, but the parking area would be under their control and would operate the parking facilities themselves. They record this and request that the police and all other concerned authorities be directed to encourage people to park their vehicles in the open land adjoining besides the M.C.D. Hospital. We make it clear that the Corporation will not be entitled to any right on this land and it is a concession by the board which the Tribunal appreciates. All the market Associations of Lajpat Nagar will fully co-operate in implementation of these directions. In the event of default, we will be compelled to pass orders totally prohibiting parking in this area. The Learned Counsel appearing for the Associations Federation submits that they would adhere to direction and in fact would employ temporary staff to encourage proper parking and to maintain free flow of traffic in that area, so as to completely reduce the emission to the minimum possible level for improving the air quality in that area. We accept this undertaking given by the market association federation. In every parking area the parking capacity shall be identified by the Corporation and it shall be electronically displayed as to how much space is available and how much space occupied and parking shall be regulated accordingly. The corporation submits that it would like to manage the parking in that area themselves through contractors or otherwise. We leave this to the

		discretion of the Corporation. However, in event of default and cars being parked beyond red line, the Corporation will take appropriate action against the contractors or the agencies appointed for this purpose. P.W.D. shall fully cooperate with the corporation for execution of these directions. According to the counsel appearing for the market association federation, it is submitted that a sum of Rs. 159 Crores has been paid by the residents and by the shopkeepers. This money according to them was paid only for parking development. However, according to the Learned Counsel appearing for the Corporation this amount was paid in furtherance to the Judgement of the Hon'ble Supreme Court of India in M.C. Mehta case and were for converting residential use to the commercial one and for one time parking charges and Rs. 159 Crores collected from the Lajpat Nagar, have not been exclusively spent for the development of parking in Lajpat Nagar but have been spent of all over Delhi. Let the Corporation inform the Tribunal as to how much amount of Rs. 159 Crores collected has actually been spent upon improving parking or carrying out any public related development in that area. We also permit the corporation to submit before the Tribunal, if they still want public to contribute more for construction of the multi-level parking facility etc. We direct the Joint Commissioner, Traffic, particularly, S.H.O., Lajpat Nagar and Traffic Inspector of Lajpat Nagar to ensure that these directions by the Tribunal are implemented without default and delay. We

	make it clear in the event of default, we shall hold the senior officer of all the public bodies and the Police Authority personally responsible. List this matter on 25th February, 2015 ,CP (Swatanter Kumar) ,JM (P. Jyothimani) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf) ,EM (B.S. Sajwan)

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

**Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 482, 502, 618, 631, 683, 778, 778,
812, 1014, 1015, 1029 of 2015)**

And

Original Application No. 95/2014

And

Original Application No. 303/2015

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present:	Applicant:	Mr. Salik Shafique, Adv. for Mr. Sanjay Upadhyay.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Advs. For MoEF & CC
	Respondent No. 6 & 7 :	Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs. For MoUD & MoPNG
		Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment
		Mr. D. Rajeshwar Ra, Adv. Mr. Charanjeet Singh, Mr. Ravinder Soni(ACP) and Mr. Harvinder Singh, DCP for Transport Deptt. and Delhi Police, GNCT, Delhi
		Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Akshay Abrol, Adv. Mr. Rajesh Ranjan Ms. Somya Rathore, Mr. Tavinder Sidhu, Mr. Mahesh Kr., Mr. P. K. Kaushik Advs. for MoRTH(NHAI), M. V. Kini & Co.
		Ms. Pinky Anand, ASG, Mr. Tavinder Sidhu, Mr. Mukesh Kr. Mr. P.K. Kaushi for Advs. for CONCOR
		Mr. Shubham Bhalla, Adv. for UT Chandigarh
		Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Advs. For State of Meghalaya
		Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P.
		Mr. Atul Jha, Adv. for State of Chhattisgarh
		Mr. Jogy Scaria, Adv. for State of Kerala
		Mr. Rajiv Bansal and Mr. Kush Sharma, and Mr. Siddhant Gupta, Advs. (DDA)
		Ms. Aruna Mathur and Mr. Avneesh Arputham, Ms. Anuradha Arputham, Advs. For State of Sikkim
		Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA.
		Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs. for State of Chhattisgarh.
		Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Advs. for State of Manipur & PCB
		Mr. Jayesh Gaurav, Adv. for JSPCB
		Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Advs. for State of Bihar and BSPCB
		Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
		Mr. Preeti Makkar and Mr. Abhimanu Garg, Advs. for UT of Pondichery
		Mr. D. K. Takkar, Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.

Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
 Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana
 Ms. K. Enatoli Sema and Mr. Amit Kumar, Advs. State of Nagaland, Nagaland PCB
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for EDMC
 Ms. Sakshi Popli, Ms Kanika Mittal, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation
 Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Shrey Kapoor and Mr. Saurabh Rajpal, Advs. For State of Rajasthan.
 Mr. Sunil Satayarth, Adv. Mr. Mohd. Abitasham, Adv For Delhi Cantonment Board
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu, Mr. A.K. Sharma, Mr. Anil Kumar Sharma and Mr. P. Kaushik for NHAI
 Mr. Mansi Chatpalliwar, Mr. Pratyush Prasanna, Advs. with Mr. Mahesh Gautam, DGM (Sales) for Ashok Leyland Ltd.
 Mr. KTS Tulsi, Sr. Adv, Mr. Diljeet T., Mr. Raj Kamal, Mr. Utkarsh Goel, Advs. Akshat Kulshreshta and Mr. Raj Kamal, Advs. For HMCI
 Mr. Sunil Kumar Sethi, Ms. Hemantika Wahi, Advs. For State of Gujarat
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Natasha Sahrawat, Adv. Ms. Meera Mathur, Ms. Nandini Gore, Mr. Aditi Bhatt, Advs. Mr. Sharmendra Choudhary, Legal Manager, Ms. Khushboo Bari, Adv. Mr. Sunil Pandey, Head, DTC and Mr. Bipin Das, Law Manager for Tata Motors Ltd.
 Mr. Avnish Ahlawat with Mr. Nitish Singh, Advs with Mr. M Nitesh Singh, (DTC)
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Sunil Satayarth, Mr. Ashok Kr. Advs. For Delhi Cantonment Board
 Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr. Dattaprasad Lawande, S.S. Rebello, Mr. and Ms. Anshuman Srivastava, Advs. for State of Goa and GSPCB
 Mr. V.K. Mishra, Adv. for Ghaziabad Mahanagar Goods Transport Association (M.A. No. 1014 & 1015 of 2015)
 Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs for Noida and Greater Noida
 Mr. Tariq Adeeb, Adv. in M. A. No. 1029 of 2015

Present: **Applicant:**
 Respondent No.1:
 Respondent Nos. 2 to 6:

 Respondent No. 7 :

Mr. Saurabh Agrawal and Mr. Akshat S. Advs.
 Mr. Vikas Malhotra, with M. P. Sahay, Advs.
 Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs.
 Mr. Rahul Choudhary, Adv.
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Jogy Scaria, Adv. for State of Kerala
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB

Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs. For State of Sikkim
Ms. K. Enatoli Sema Adv. for State of Nagaland, Nagaland PCB
Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Mr. Vijayanand Advs. for State of Manipur & PCB
Mrs. Pinky Anand, ASG, Mr. T.S. Sidhu and Mr. Kaushik, Advs.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana
Mr. Sunil Satayarth, Mr. Mohd. Abitasham Advs. For Delhi Cantonment Board
Mr. Ravikant Pal, Mr. Pragyan Sharma and Mr. Pulkit Prakash, Advs. for State of Mizoram
Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.
Ms. Preeti Makker and Mr. Abhimanyu Garg, Advs for UT of Pondichery.
MR. Devraj Ashok, Adv. for State of Karnataka
Mr. Shubham Bhalla, Adv. for Chandigarh Admn.
Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs for State of Chattisgarh
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
Mr. P. Venkat

Original Application No. 303 of 2015

Applicant :

Ms. Bhakti Pasrija Sethi, Ms. Shubhra Sena Ms. Sudha Pati, Adv., Ms Mamta Rani and Ms. Prerna Kumari, Advs.

Respondent No. 1 :

Mr. Karan Singh, Adv. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 5 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP.

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana

Mr. RajKumar Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 156 to 158 October 7, 2015	We have heard the learned Counsel appearing for the parties including the learned Counsel appearing for the NCT of Delhi, State of Haryana, State of UP, NHAI and other authorities. It is a conceded position before us that vehicular pollution is one of the main sources of polluted air in Delhi. We have already passed detailed directions in

		relation to all known sources of air pollution which are adversely affecting the air quality in NCT of Delhi. They are dust, emissions from burning and pollution resulting from vehicular emissions. All the earlier orders passed by the Tribunal would continue to be in force without any change or alterations. We direct all the concerned authorities to carry out the directions and the preventive steps recorded in the orders of the Tribunal passed from time to time. Keeping in view the heavy vehicular pollution in Delhi primarily resulting from heavy vehicles and even more specifically the diesel vehicles which are primarily used for transportation of goods and other materials, there has been some controversy even in regard to number of vehicles which enter Delhi everyday from its different entering points. However, a statement has been filed today on behalf of the NCT of Delhi (Traffic Police) that nearly 66069 commercial vehicles of different kinds enter Delhi out of which, 6 wheel trucks, 10 wheel trucks and 14 and above wheel trucks account for approximately 14000. These heavy vehicles are not destined to terminate at Delhi. They include more than 25% vehicles which are enroute and just pass through Delhi for convenience, better road and less toll tax. It is stated before us that the low toll tax is an incentive for heavy vehicles to pass through Delhi rather than take alternative routes which would reduce the pollution level on the one hand and on the other hand would even be more convenient for transportation purpose as they could turn to their direct destination like UP and Rajasthan without entering Delhi from side

	of the Sonipat/Panipat. The charges payable at Delhi are Rs. 600/- while for the vehicles passing through Haryana they are Rs. 930/- to 1550/- depending upon the kind of trucks that are entering. It is undisputed before us that not only from the side of the respondents, but even the applicant, that alternative routes for heavy vehicles should be adopted in order to de-congest Delhi traffic as well as to improve the air quality in Delhi. As regards the different alternative routes that have been suggested after deliberations, we are of the considered view that the heavy vehicles destined for places other than Delhi could be diverted at Panipat in Haryana through Rohtak and be directed to take the route Panipal - Bawal, NH-71A & 71 which will exit at NH-8 at Bawal. It is further pointed out that the alternative route is dual carriage four lane and can be conveniently used for heavy vehicular traffic. The other aspect is with regard to the pollution being caused by the heavy vehicles particularly the transportation vehicles whether destined for Delhi or enroute Delhi. All these vehicles, must pay environmental compensation in terms of Sections-15 & 17 read with Section-14 of the National Green Tribunal Act, 2010 for the pollution being caused. The undue incentive derived by the heavy vehicles to enter Delhi, just to save Rs. 1000/- or so does not appear to be reasonable and environmentally tolerable. Therefore, considering the quantum of tax being collected by the NCT of Delhi as well as the fact that there is no material travel distance difference, in our considered view it will

		be appropriate to direct the checking posts provided by the NCT of Delhi, under the orders of the Tribunal and even otherwise, to charge the heavy transport vehicles entering NCT of Delhi with their final destination Delhi or enroute to other places entering from Sonipat side to pay environmental compensation in addition to the toll tax payable by them @ Rs. 700/- for 2 axle, Rs. 500/- for 4 and above axle and Rs. 1000/- for 3 axle heavy vehicles. In light of the above, we pass the following directions: 1. All the trucks, heavy vehicles irrespective of 2, 3 and 4 axle and above, destined for places other than Delhi shall be diverted at Panipat toll plaza to adopt the alternative route afforested that is Panipat, Bawal, NH-71, 71-A which would exit at NH-8 across Bawal. The trucks and heavy vehicles entering Delhi would pay environmental compensation as follows i.e. Rs. 700/- for 2 axle, Rs. 500/- for 4 axle and Rs. 1000/- for 3 axle. 2. The above amount would be in addition to the toll tax otherwise payable by them in accordance with law in force. The amounts collected on account of the environmental compensation would be paid to the DPCC, which shall utilize it for taking steps for improving the air quality in Delhi and a separate account in that behalf would be maintained. The amount will be collected by the NCT of Delhi toll posts and diverted to the DPCC. The amount so collected, for improving the air quality of Delhi, would be spent by the CPCB and

		DPCC on joint projects. 3. The vehicles which are enroute Delhi and have not taken the alternative route as directed at Panipat, would not be permitted to enter Delhi and would be returned to Panipat to take the alternative route. 4. The check posts already created under the orders of the Tribunal would be entitled to direct these vehicles to return to Panipat or other alternative route. 5. The NHAI or any of its assignee or concessionaire and the State of Haryana would be responsible for diverting the trucks to the alternative routes. However, the principal liability to implement these directions will be that of the Government and the public authorities and NHAI. 6. These directions would equally apply on return traffic entering from Bawal which will be diverted to Panipat without entering NCT of Delhi and will pass through NCT of Delhi, Gurgaon, Faridabad, Ghaziabad and Bahadurgarh. 7. The Central Pollution Control Board (CPCB) and the DPCC are hereby directed to purchase and/or arrange proper mechanism and instruments for checking emissions of moving overloaded heavy vehicles, as measuring the emissions of standing vehicles, particularly transportation vehicles, would never depict correct data which are the basic cause for raising particulate matter and carbon content in the air. 8. In the meanwhile, we direct the Joint

		Commissioner (Traffic Police) of Delhi, Joint Commissioner (Traffic Police) of Haryana and Joint Commissioner (Traffic Police) of Uttar Pradesh to examine if there is any possibility of adopting alternative routes from Ghaziabad and Gurgaon. 9. The learned Counsel appearing for the State of Haryana submits that the work on Western Expressway, which will completely by pass NCT of Delhi, is in progress. They will abide by the undertaking given to the Tribunal and ensure that first phase is completed by January, 2016 and made operational. We direct the State of Haryana to ensure that the Western Expressway is made operative strictly in terms of the undertaking furnished and the orders of the Tribunal. 10. The learned ASG appearing for the NHAI submits that the work of Eastern Expressway, which had not been awarded for the last more than five years, has already been awarded. The NHAI is in the process of taking possession of the land and would ensure expeditious completion of the project. We direct the NHAI accordingly. The local authorities are directed to facilitate the progress of the said project. 11. We allow the vintage sports activity to be conducted on 18th October, 2015, with the same restrictions as already directed by the Tribunal under its various orders. It will be a one day sports activity. The vintage cars would not be

	driven on the roads for regular transportation. 12. In the meanwhile, we in furtherance to the directions contained in the previous orders of the Tribunal direct the CPCB, MoEF and the Ministry of Transportation, Government of India to identify the places which have least car population density and have more area for dispersion and dilution of the emissions. All other matters and miscellaneous applications would be taken up for hearing on the next date of hearing which is 2nd November, 2015. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

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

Original Application No. 21 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

Present:	Applicant:	Mr. Sanjay Upadhyay, Adv. and Mr. Vardhman Kaushik, Applicant in person
	Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate, Dr. Rashid Hasan, Advisor and Mr. R.N. Jindal, Director
	Respondent No. 2:	Ms. Alpana Poddar, Advocate
	Respondent No. 4:	Mr. Narender Pal Singh, Adv. and Mr. Kulanand Joshi, Member Secy. Dr. S.D. Singh, CEO Parks and Garden Society Mr. Kush Sharma, Adv. for DDA Ms. Puja Kalra, Adv. for South and North MCD Ms. Savitri Pandey, Adv. Mr. Balendu Shekhar, Adv. for EDMC Mr. Sanjiv Verma, IAS, Director Environment Mr. P.C. Meena, IAS, Administrator, HUDA Mr. Mahavir Singh, HCS, Addl. Transport Commissioner Dr. Yadav, Chief Engineer, ULB Haryana Mr. Narender Hooda, Sr. Adv. and Mr. Dinesh Jindal, LO Ms. Bano Deswal, AAG Haryana Mr. Ardhendumauli Kumar Prasad, Adv. Mr. B.V. Niren and Prasouk Jain, Advs.

Date and Remarks	Orders of the Tribunal
Item No. 1, December 04, 2014 A	It is undisputable and infact commonly conceded before us that Delhi is one of the worst cities as far as air pollution is concerned. Studies have shown that the air pollution of Delhi is very injurious to human health. Despite various Policies framed by the State and even some of the orders passed by the highest Court of the land the ambient air quality in Delhi is seriously violative of the prescribed standards. The extent of pollution has increased by the day causing varied illnesses to the citizenries of Delhi and even the

		morning walkers are not safe. In order to adopt a consultative and deliberated approach for resolving this serious menace the Tribunal had directed various stakeholders and all concerned Departments of the States to be present at a Chamber meeting that was held at NGT on 02nd December, 2014. Amongst others the following were present:- 1. Dr. S. C. Khuntia, Special Secretary & Financial Advisor, Ministry of Petroleum and Natural Gas 2. Dr. Rashid Hasan, Advisor, MoEF & CC 3. Mr. A. B. Akolkar, Member Secretary, Central Pollution Control Board 4. Mr. Sanjiv Kumar, Secretary, Environment & Forest, NCT of Delhi 5. Ms. Alka Diwan, Secretary Finance, GNCTD, Finance Deptt. 6. Mr. Satish Mathur, SPL Commissioner (Transport), GNCTD 7. Mr. P C Meena, IAS, HUDA 8. Mr. M. K. Meena, IPS, Jt. CP, New Delhi, Delhi Police 9. Dr. M. M. Kully, Member Secretary, Finance, GNCTD 10. Dr. Mukesh Chander, Special Commissioner Incharge Traffic Police Delhi, Delhi Police 11. Mr. P. Kamaraj, Spl. CP/HQ, Delhi 12. Dr. Anil Kumar, Director (Environment), Govt. of Delhi, Environment Dept., Govt. of Delhi 13. Mr. Kulanand Joshi, Member Secretary, Delhi Pollution Control Committee, Govt. of NCT of

		Delhi
		14. Mr. Praveen Gupta, Commissioner, Nr. DMC, MCD (North)
		15. Mr. Manish Gupta, Commissioner, SDMC, EDMC
		16. Mr. Gyanesh Bhati, Secretary Cum Commissioner Transport, Govt. of NCT of Delhi
		17. Mr. Debanshu Mukherjee, CMD, Delhi Transport corporation
		18. Mr. SCL Das, Secretary (Health), Govt. of NCT of Delhi
		19. Mr. Sanjay Bandopadhyaya, Joint Secretary, Ministry of Road Transport & Highways
		20. Ms. Durga Shanker Mishra, Addl. Secretary, Ministry of Urban Development
		21. Mr. Pramod Kumar Agrawal, ACEO, NOIDA
		22. Mr. Anant Kumar, CE, New Delhi Municipal Council
		23. Mr. Deepak Gupta, CE, PWD, GMCTD
		24. Mr. C. Ekambaram, Chief Engineer, M/o Road Transport Highways
		25. Dr. TK Joshi, Delhi Govt. MAML
		26. Ms. Puja Kalra, Adv., Counsel for North MCD, South MCD
		27. Ms. Savitri Pandey, Adv., Counsel for State of U.P.
		28. Mr. Ravindra Kumar, Adv., NOIDA
		29. Mr. Surnedra Kumar, Law Officer, South MCD, South MCD
		30. MR. Balendu Shekhar, Adv. Of EDMC, EDMC
		31. Mr. Kush Sharma, Adv., Delhi Development Authority

	32. Mr. Narender Pal Singh, Adv. For DPCC & GNCTD 33. Mr. Dinesh Jindal, Law Officer, DPCC 34. Dr. M.P. George, Scientist-D, Delhi Pollution Control Committee Reference to various proposals put forward by the various studies carried out by different Departments and preventive and restorative steps that could be taken were deliberated upon extensively. Further, it was also discussed as to how effectively the directions issued by the Tribunal could be implemented effectively and purposefully. There was a serious concern and consensus that the air quality of Delhi needed attention of all concerned and had to be improved, even if necessary by taking harsh steps in accordance with law. The studies have shown that there are three primary sources causing serious air pollution in NCR Delhi as far as PM10 is concerned. They are dust, burning of plastic and other materials including leaves in the open area and vehicular pollution. All these three sources lead to a common evil of air pollution by introducing high particulate matters, hydrocarbon, oxides of sulphur and nitrogen, benzene and ozone in the air. Vehicles emit numerous carcinogenic chemicals, diesel contains benzene, formal dehyde and 1, 3 – butadiene all three are well recognised carcinogenics. All these pollutants are responsible for causing health hazards. Burning of material also causes serious respiratory problems and are even carcinogenic. It is unquestionable that citizens of Delhi are certainly

	entitled to better quality of air and environment. Though, these three sources of pollution are independent of each other and require different and distinct preventive and restorative directions, but have to be dealt with a common object of ensuring attainment of better ambient air quality in NCR Delhi. This necessitated the issuance of Notice to the State of Haryana, State of Uttar Pradesh and State of Rajasthan which have adjacent border with NCR Delhi. Learned counsel appearing for these States have accepted Notice and are present before the Tribunal. They also commonly conceded that adequate measures are required to be taken for prevention and control of pollution and maintenance of air quality. They also further state that all these States would fully cooperate with the Government of NCT of Delhi and would comply with the directions of the Tribunal for attainment of the object aforestated. An argument has been advanced before us to say that banning of 15 years old vehicles in Delhi would be unfair to the owners of the cars and consequently if cars are sent outside Delhi it would mean that they will cause pollution in other cities and hence, it would shift the pollution. This submission is not only misconceived but void of reasoning as well. Foremost, it pre-supposes that the vehicles of more than 15 years age are not causing pollution. The direction for not permitting the 15 years old vehicles to ply in Delhi may cause some hardship but certainly that hardship on individual or group of individuals must give way to the public cause

	of better environment and public health, which as per constitutional mandate is the fundamental right of the public at large. Individual rights must concede in favour of public rights. Furthermore a 15 year old vehicle may have greater adverse impact on the air quality and environment in a congested area with heavy vehicles density in comparison to when it is driven in an area which is open, with thin vehicle density has a greener belt and wider air dispersion possibility. It is an established fact that particulate problem is most severe in the area having dense population coupled with heavy traffic intensity. Although new engine design have come into existence to reduce emission but the gain has got over shadowed the increasing number of vehicles and the increasing miles travelled per vehicle per year (Wargo et al 2006; Environment and Human Health Inc. Connecticut, USA) with heavy engine. We have to give precedence to the environment and public health and, therefore, the directions must be adhered to without delay and default. Having considered various aspects and after seriously pondering over the suggestions made at the Bar or in the Chamber meeting, we are of the considered view that further directions are called for in the larger public interest and to ensure prevention of air pollution emanating from the three primary sources aforestated. It has also been brought to our notice that nearly 30 lakhs litres of petrol is wasted because of traffic jams and held-up-at signals. This data, however, relates to

		the year 2009 which must naturally have increased considerably now. There are certain definite steps that required to be taken by the concerned Authorities to ensure free flow of traffic and avoid traffic congestion on the roads. <u>Directions:</u> 1. Our order dated 26th November, 2014 and 28th November, 2014 shall continue to be in force till further orders and shall be strictly enforced by all concerned Authorities. 2. We direct a team of CPCB, DPCC, a Scientist from MoEF, a Scientist from State Boards of State of Rajasthan, State of Haryana and State of Uttar Pradesh to take ambient air quality samples from the entire NCR Delhi at different intervals and times. The samples would be taken during the peak hours as well as non-peak hours. The sample shall definitely be collected in the early morning hours and late evening hours. The complete analysis of this data for all parameters of NAAQS 2006 shall be made and comparison with the national ambient air quality specified in the Notification dated 18th November, 2009 issued by the MoEF in relation to the air quality standards specified therein shall be made. This report shall also identify the environmentally safest period of the day when residents of Delhi would be exposed to minimum injury to their health.

		3. The data so collected shall be treated as base line data for issuance of further directions to improve air quality in Delhi. As already indicated these three principle sources of pollution of air have to be separately dealt with. There cannot be any commonality in the issuance of directions and measures to be taken for prevention and control under each head. Thus, we would pass directions specific to each of the above stated sources: <u>Vehicular Pollution</u> 1. In addition to the directions already issued we further direct concerned Authorities and Administration to consider the proposal for charging of higher parking fee, higher registration fee and imposition of congestion charges. They shall put their respective suggestions on record before the next date of hearing. 2. We direct all the State Governments, particularly NCT Delhi, to take effective steps to enhance public transportation facilities and provide due infrastructure in that behalf. It will be ensured that public transport becomes more user friendly rather than causing waste of energy by plying empty buses on the roads. It is a matter of common knowledge that air conditioned buses are being run by DTC for long part of the day ply but without passengers. Thus, DTC should run buses of different capacity and

		size at different timings and on different routes. All such buses would be driven on CNG fuel only. 3. The DTC shall ensure that the buses running by it do not cause congestion. This transport should be of greater utility to the public and distinct incentives should be provided to the general public to encourage use of public transport. 4. The DTC shall ensure that every bus belonging to DTC or operating under its directions is subjected to mechanical check up through computerised system once every month and will be subjected to check for PUC atleast twice a month. 5. The DTC shall formulate a proper group of staff to carry out above directions/functions and submit a compliance report to the Depot Manager who in turn will inform the highest Authority of the DTC. The above regular computerised check will not absolve the DTC from being subjected to random checks by the concerned Authorities for the purposes of issuance of PUC. It shall be ensured that these buses do not exceed the prescribed emissions standard. 6. The Government and all concerned Authorities shall ensure free flow of traffic in Delhi. Parking spaces shall be earmarked. Parking of vehicles in excess and beyond the specified parking area shall be strictly prohibited. In any case, there shall be no parking permitted on metalled roads in Delhi and appropriate Authority shall take due steps for taking penal action against the

		defaulting persons or firms or contractors who violate this direction. <u>General directions</u> 1. Obstructions in free flow of traffic result in traffic jams that lead to higher emission of pollutants in the atmosphere. Thus, we direct the Authorities to ensure that there is no unauthorised parking and whenever a vehicle breaks down on the roads, the same should be removed immediately and without any undue delay. Authorities particularly the Police, thus should make the towing cranes easily accessible. 2. The persons who violate these directions besides being liable for different actions that may be taken against them by the Corporation or appropriate Authority under the law in force, would also be liable to pay compensation and the amounts may be determined by the Tribunal on the principle of 'Polluter Pays' for causing and/or abating pollution in NCR Delhi. 3. The ambient air quality of Delhi needs to be improved even if harsh directions within the framework of law are required to be issued. Keeping in view the gravity of harm to human health due to inferior ambient air quality of Delhi. Improvement even by a decimal of the air quality would go long way in air improving public health and environment in Delhi. Thus, we direct the Governments and all public and other Authorities to immediately install air filters in the colleges,

		schools, gardens and other public places which are visited by a greater number of people in the day. 4. The check post, as directed earlier at the entry points to Delhi, would be manned and monitored commonly by Police, transport department and Weight and Measures Department of NCT of Delhi, and also Officers of the similar Department from the concerned States shall accompany. 5. Online weighing machines shall be installed at a short distance away from the entry post of Delhi. Record of online data of weighing machines in respect of goods carrying vehicles would be maintained regularly and checked by the senior Officer of Police and Transport Department who shall sign and verify such data every day. 6. The check post would only let such vehicles pass onwards which are found to be neither overloaded nor polluting. 7. These Check Post Staff shall make all efforts to ensure that there is no congestion at the entry points of Delhi and no vehicle standing at the Border should be allowed to keep its ignition on. 8. The concerned Authorities and Government should take steps to ensure expeditious completion of the project of Kundli-Manesar-Palwal Express Way, which we are informed is likely to be completed by 2016. The completion of the projects would ensure that the vehicular traffic for destinations other than Delhi do not

		enter NCR Delhi, thus, reducing traffic pressure and consequently air pollution, resulting from vehicular traffic in Delhi. 9. We also direct NCT Delhi and DDA particularly to take the project for completion of a flyway and/or to connect all existing flyovers without obstruction and traffic lights on top priority. 10. The authorities concerned of all the States and NCR of Delhi shall also ensure that Eastern Peripheral Express Way should be completed in a time bound manner and the project be taken up with top priority by the concerned States. 11. We direct that the DPCC and the Transport Department shall immediately ensure installation of appropriate 'catalytic convertors', particularly for diesel vehicles, if not already fitted which would ensure reduction of pollutants entering the atmosphere in Delhi. 12. The Government of NCT will take steps to introduce and enforce BS-V vehicles in NCR Delhi. All other neighbouring States would ensure that they also take effective steps to have BS – IV compliant vehicles only. The progress report should be submitted before the next date of hearing to the Tribunal. 13. It was agreed and which we direct that Lajpat Nagar and Karol Bagh should be taken as pilot projects for de-congestion of the traffic resulting from excessive and impermissible parking in the entire area.

		14. We direct Transport Authority, Delhi Police and DPCC to take immediate and effective steps so that parking areas are marked distinctly and no vehicle is permitted to be parked beyond parking areas in Lajpat Nagar and Karol Bagh. It will be ensured that free flow of traffic is maintained in the market and colonies of the pilot projects. In Lajpat Nagar two way dual carriage while in Karol Bagh one way dual carriage flow of traffic shall be maintained. There must not be any parking on the metalled roads. The concerned Police Officers, Officers of the Corporation and other agencies/authorities shall be personally responsible for this compliance. 15. It has been brought to our notice that the forest area of Delhi is 12.12% as against national forest policy that envisaged 33% forest area. However, it may also be noticed that if the green area is added along with forest area then it may come to nearly 20.08% and from whatever point it is viewed, Delhi certainly needs a larger green area and forest cover. Thus, we direct NCR of Delhi, DPCC and Forest Department to increase the forest cover area as well as to maintain the existing green and forest covers in an appropriate manner and ensure that there is no degradation of the forest and/or green area in Delhi. 16. The Forest Department shall submit report before us as to how many trees have been planted from today till the next date of hearing. The Forest

		Department and Corporation should plant variety of trees belonging to native species in the existing open forest area and also, along the roads and other open spaces. 17. It has not been disputed that checking of vehicles and grant of PUC in the entire NCR of Delhi lacks proper functioning and supervision. Thus, we direct all the States to constitute a special team consisting of members from its Transport Department, Environment Department, Pollution Boards and from any other Department as they may consider appropriate to keep serious vigil on the functioning of the service stations or centers empowered to issue PUC. It will ensure that their machines and equipments are duly calibrated on regular intervals and PUC are issued only after checking vehicles in accordance with the norms specified. 18. It has also been seriously deliberated that garbage burning in Delhi may not be the only pollutant but it is most serious pollutant. It causes nearly 29.4% of air pollution with reference to PM10, however, its contribution in terms of pm 2.5 is not placed us which is a serious pollutant and causes health hazards. Therefore, steps should be taken to reduce level of PM 2.5 through appropriate anti pollution devices. 19. The only workable solution to this serious menace is complete prohibition on burning of garbage or other material in the open area.

		20. It has also been brought to the notice of the Tribunal that waste plastic, rubber and materials are burnt openly though prohibitory orders have been issued in the other connected matters by the Tribunal. The police has reported that no such burning is going on particularly in the area of Narela and Mundka but complaints with photographs are still being filed before the Tribunal stating clear violation of this direction. 21. Thus, we direct Police Authority and respective Municipal Corporation and the DPCC to ensure that any waste material, garbage or even leaves are not burnt in the open areas at all. For this purpose, concerned Executive Engineer of the respective organisation responsible for activities of cleanliness shall be personally responsible because this work alone cannot be carried out by the Police with its limited resources. It is important that all the public Authorities including DPCC and the representative of the State Boards effectively supervise the compliance of this direction. If any person is found to be causing such pollution then besides the actions that can be taken against him. We make it clear that such person shall be liable to pay compensation in terms of Section 15 of the National Green Tribunal Act, 2010 under the principle of 'polluter pays'. This compensation may vary depending on facts and circumstances of the case from Rs. 20,000 to Rs. 1 lakh per incident.

		22. Proper steps will be taken to spread education through different sources and even by requiring concerned Schools in the NCR, Delhi to educate students about the need for improvement of air quality and the steps that should be taken. Cooperation of the young generation should be encouraged besides providing a good incentives to the people reporting the same and steps be taken for creating environmental wings in the Capital city of India. 23. Suggestions have been made with regard to putting of cap on total number the vehicles, including cars and all other vehicles. We direct all the concerned Authorities in the respective States to collectively put their views before next date of hearing in this regard. 24. We further direct that there shall be no hot mixing on the road side. All public Authorities particularly the PWD, DDA and others should themselves, during construction and maintenance of road, ensure that coal tar, bitumen and/or asphalt mix is brought in molten condition and the same is neither burnt nor fire is put to melt these substance on the open roads. 25. The NCR Delhi, DDA and Railway Boards shall consider shifting and /or bifurcating of three sites meant for Cargo containers i.e. Tughlakabad, Okhla and area close to Anand Vihar, where heavy containers depot have been

		located, 10 or 12 wheeler heavy trailers come to these areas and thus, cause serious traffic jams obstructing free flow of traffic, besides directly causing pollution in the air. If these sites are shifted or bifurcated atleast in the areas in the outskirts of NCR in consultation with the other States will help greatly in improving the air quality of NCR Delhi. 26. A suggestion was also made to fix life of the vehicle especially private and commercial. 27. Now we will be dealing with the air pollution from dust. It primarily results from demolition and construction activity going on in the NCR Delhi. Furthermore, the demolition material and construction material are transported without proper coverage and precautions, thus causing serious air pollution. It is informed that the largest contributor of air pollution is dust in NCR Delhi. This needs to be resolved at the earliest. It is also commonly conceded before us that this is one aspect which can be controlled by taking adequate measures without posing much difficulties. Still it is imperative that there should be definite will and sincerity for complying with the directions contained in this order on the part of all concerned. Hoping that all the concerned Departments of the Government, Police Authorities and Corporation would earnestly execute the directions, we issue following directions:

		1) No government, authority, contractor, builders or any person would be permitted to store/dump construction material or debris on the metalled road. 2) Beyond the metalled road the area where such construction material or debris can be stored shall be physically demarcated by the Officers of all the concerned Authorities/Corporation. It shall be ensured that such storage does not cause any obstruction to the free flow of traffic and/or inconvenience to the pedestrians. It should be ensured that no accidents occur on account of such permissible storage. Every builder, contractor or person shall ensure that the construction material is completely covered by tarpaulin. All other precautions should be taken to ensure that no dust particles are permitted to pollute the air quality as a result of such storage. It shall also be ensured that appropriate protection measures are taken by raising of wind breakers of the appropriate height on all the sides of plot/area using plastic and/or other similar material, to ensure that no construction material dust fly outside the plot area and it will be the builder/contractor responsibility to ensure that their activity does not cause any air pollution during the course of the construction and/ or storage of material or construction activity. This condition shall be strictly

		adhered to by every builder, contractor, person or authority whether it relates to construction on small plot or a multistoreyed building. In the event of default they shall be liable to be prosecuted under the law in force, as well as for causing environmental pollution and shall also be liable to pay compensation which would be determined by the Tribunal in accordance with law. 3) All the concerned State Pollution Control Boards and environment departments of the State are hereby directed to maintain strict vigil and supervision over all the stone crushers to ensure that they are operating only after obtaining consent of the board/authority and are strictly conforming to the prescribed norms. 4) The Executive Engineer of each PWD or any other organisation would be personally responsible for effective compliance of these directions who shall submit Report to his Chief Engineer without delay and default every week. This will also apply to construction of all the roads, highways in the NCR Delhi. 5) All the trucks or vehicles of any kind which are used for construction purposes and/or are carrying construction materials like cement, sand and other allied material shall be fully covered. The vehicles would be properly cleaned, shall be dust free and/or other

		precautions would be taken to ensure that enroute their destinations, the dust, sand or other particles are not permitted to be released in the air and/or contaminate air. Any truck which is not complying with these directions would not be permitted to enter NCR Delhi. 6) All Authorities, Corporations of NCR Delhi shall also ensure that there will no burning of any material earmarked at the land fill sites. 7) Crop remnant burning in agricultural field falling in NCR Delhi shall be strictly prohibited. 8) All the authorities i.e. Chief Secretaries, of the respective States and NCR Delhi, Commissioner / DGP, heads of all the public authorities, bodies, organization, including the Director General of PWD, CPWD, Horticulture Department, Vice Chairman of DDA, Commissioner of the respective Corporation, Chairperson of State Pollution Control Board and all Authorities, shall issue directions forthwith for strict compliance of these directions and in default would take disciplinary action under the respective service rules for any of the breach committed by officials to the direction aforestated. 9) We also direct the inspecting team to collect stack and air ambient quality samples from and near the Indraprastha Thermal Power Station Delhi and

		Barder Pur Thermal Power Plant. They should specifically provide information to contribution of these two plants to the air pollution in Delhi. The above directions shall be enforced without delay and default by all the concerned Authorities, Corporation, DDA, DJB, Forest Department, Department of Environment, NCT Delhi, DPCC, Department of Weights and Measures, NCT Delhi and Police Force. The head of the Department of all these would be personally responsible for compliance of these directions. It is further made clear that the head of Departments shall fix responsibility of all the Officers incharge of different areas to ensure that directions are carried out without default and delay. All the status reports, compliance of which is required above as per directions of this Tribunal would be filed before the Tribunal three days in advance of the date fixed. Liberty is granted to all the parties, any person aggrieved or otherwise and all the Departments to approach the Tribunal if the occasions so arises for clarification of the orders passed by the Tribunal and/or for issuing further directions. List this matter on 12th January, 2015 the date already fixed. ,CP (Swatanter Kumar)

		,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)



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

**Original Application No. 21/2014
(M.A. Nos. 155, 248, 394, 412 to 414, 420, 482, 502, 618, 631, 683, 778, 778,
812, 1014, 1015, 1029 of 2015)**

And

Original Application No. 95/2014

And

Original Application No. 303/2015

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Original Application No.21 of 2014 and 95 of 2014

Present:	Applicant: Mr. Salik Shafique, Adv. for Mr. Sanjay Upadhyay. Respondent No. 1: Ms. Panchajanya Batra Singh, Advs. For MoEF & CC Respondent No. 6 & 7 : Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs. For MoUD & MoPNG Narender Pal Singh, Adv. and Mr. Dinesh Jindal, LO For DPCC and for GNCT Environment Mr. D. Rajeshwar Ra, Adv. Mr. Charanjeet Singh, Mr. Ravinder Soni(ACP) and Mr. Harvinder Singh, DCP for Transport Deptt. and Delhi Police, GNCT, Delhi Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Akshay Abrol, Adv. Mr. Rajesh Ranjan Ms. Somya Rathore, Mr. Tavinder Sidhu, Mr. Mahesh Kr., Mr. P. K. Kaushik Advs. for MoRTH(NHAI), M. V. Kini & Co. Ms. Pinky Anand, ASG, Mr. Tavinder Sidhu, Mr. Mukesh Kr. Mr. P.K. Kaushi for Advs. for CONCOR Mr. Shubham Bhalla, Adv. for UT Chandigarh Ms. Aprajita Mukherjee and Mr. Upendra Mishra, Advs. For State of Meghalaya Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P. Mr. Atul Jha, Adv. for State of Chhattisgarh Mr. Jogy Scaria, Adv. for State of Kerala Mr. Rajiv Bansal and Mr. Kush Sharma, and Mr. Siddhant Gupta, Advs. (DDA) Ms. Aruna Mathur and Mr. Avneesh Arputham, Ms. Anuradha Arputham, Advs. For State of Sikkim Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA. Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs. for State of Chhattisgarh. Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Advs. for State of Manipur & PCB Mr. Jayesh Gaurav, Adv. for JSPCB Mr. Rudreshwar Singh, Mr. Gautam Singh and Mr. Divya Singh, Advs. for State of Bihar and BSPCB Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB. Mr. Preeti Makkar and Mr. Abhimanu Garg, Advs. for UT of Pondichery Mr. D. K. Takkar, Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.

Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
 Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
 Mr. Anil Grover, AAG and Mr. Rahul Khurana, Advs. For State of Haryana
 Ms. K. Enatoli Sema and Mr. Amit Kumar, Advs. State of Nagaland, Nagaland PCB
 Mr. Balendu Shekhar & Mr. Akshay Abrol, Advs. for EDMC
 Ms. Sakshi Popli, Ms Kanika Mittal, Advs. for NDMC
 Ms. Puja Kalra, Adv. for South Delhi Municipal Corporation and North Delhi Municipal Corporation
 Mr. Pulkit Prakash, Mr. Pragyan Sharma and Mr. Ravikant Pal, Advs. for State of Mizoram
 Mr. Shiv Mangal Sharma, AAG, Mr. Shrey Kapoor and Mr. Saurabh Rajpal, Advs. For State of Rajasthan.
 Mr. Sunil Satayarth, Adv. Mr. Mohd. Abitasham, Adv For Delhi Cantonment Board
 Ms. Pinky Anand, Sr. Adv., ASG with Mr. Tavinder Sidhu, Mr. A.K. Sharma, Mr. Anil Kumar Sharma and Mr. P. Kaushik for NHAI
 Mr. Mansi Chatpalliwar, Mr. Pratyush Prasanna, Advs. with Mr. Mahesh Gautam, DGM (Sales) for Ashok Leyland Ltd.
 Mr. KTS Tulsi, Sr. Adv, Mr. Diljeet T., Mr. Raj Kamal, Mr. Utkarsh Goel, Advs. Akshat Kulshreshta and Mr. Raj Kamal, Advs. For HMCI
 Mr. Sunil Kumar Sethi, Ms. Hemantika Wahi, Advs. For State of Gujarat
 Mr. Om Prakash, Adv. for MoR Northern Railway
 Mr. Devraj Ashok, Adv. for State of Karnataka
 Ms. Natasha Sahrawat, Adv. Ms. Meera Mathur, Ms. Nandini Gore, Mr. Aditi Bhatt, Advs. Mr. Sharmendra Choudhary, Legal Manager, Ms. Khushboo Bari, Adv. Mr. Sunil Pandey, Head, DTC and Mr. Bipin Das, Law Manager for Tata Motors Ltd.
 Mr. Avnish Ahlawat with Mr. Nitish Singh, Advs with Mr. M Nitesh Singh, (DTC)
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Sunil Satayarth, Mr. Ashok Kr. Advs. For Delhi Cantonment Board
 Mr. Yogesh Kanna and Mr. Jayant Patel, Advs. for Tamil Nadu State
Mr. Atmaram. N. S. Nadkarni, Adv. General, Mr. Dattaprasad Lawande, S.S. Rebello, Mr. and Ms. Anshuman Srivastava, Advs. for State of Goa and GSPCB
 Mr. V.K. Mishra, Adv. for Ghaziabad Mahanagar Goods Transport Association (M.A. No. 1014 & 1015 of 2015)
 Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
 Mr. P. Venkat Reddy, Adv. for State of Telangana
 Mr. Ravindra Kr. And Mr. Gudipati G. Kashyap, Advs for Noida and Greater Noida
 Mr. Tariq Adeeb, Adv. in M. A. No. 1029 of 2015

Present: **Applicant:**
 Respondent No.1:
 Respondent Nos. 2 to 6:

 Respondent No. 7 :

Mr. Saurabh Agrawal and Mr. Akshat S. Advs.
 Mr. Vikas Malhotra, with M. P. Sahay, Advs.
 Mr. Ardhendumuali Kumar Prasad, Mr. Jigdal G. Chankapa and Mr. Pryanka Swami, Advs.
 Mr. Rahul Choudhary, Adv.
 Ms. Prerna Singh and Mr. Prashant Mathur, Advs. For State of Andhra Pradesh
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Jogy Scaria, Adv. for State of Kerala
 Mr. Anil Shrivastav and Mr. Sanyam Saxena, Advs. For State of Arunachal Pradesh & PCB

Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
Mr. Kabir Shankar Bose and Mr. Saakar Sardana, Advs. For State of W.B. & WBPCB.
Ms. Aruna Mathur, Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advs. For State of Sikkim
Ms. K. Enatoli Sema Adv. for State of Nagaland, Nagaland PCB
Mr. Suryanarayan Singh, Sr. Addl. Advocate General for State of H.P.
Mrs. G. Indira, Mr. Sumit Kumar and Mr. K.V. Jagdishvaran, Advs. For UT of Andaman & Nicobar Islands Administration
Mr. Sapam Biswajit Meitei, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Mr. Vijayanand Advs. for State of Manipur & PCB
Mrs. Pinky Anand, ASG, Mr. T.S. Sidhu and Mr. Kaushik, Advs.
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana
Mr. Sunil Satayarth, Mr. Mohd. Abitasham Advs. For Delhi Cantonment Board
Mr. Ravikant Pal, Mr. Pragyan Sharma and Mr. Pulkit Prakash, Advs. for State of Mizoram
Mr. Sengul Khanna, Mr. Deepak Jain and Mr. Alok Kumar, Advs. For UT Daman & Diu, Dadar & Nagar Haveli.
Ms. Preeti Makker and Mr. Abhimanyu Garg, Advs for UT of Pondichery.
MR. Devraj Ashok, Adv. for State of Karnataka
Mr. Shubham Bhalla, Adv. for Chandigarh Admn.
Mr. Apoorv Kurup and Mr. A. C. Boxipatro, Advs for State of Chattisgarh
Mr. Jayesh, Adv. for JSPCB
Ms. Puja Kalra, Adv. NDMC
Mr. Dinesh Kr. Garg, Mr. D. Garg and Mr. Deepak Mishra, Advs. for State of Uttarakhand
Mr. P. Venkat

Original Application No. 303 of 2015

Applicant :

Ms. Bhakti Pasrija Sethi, Ms. Shubhra Sena Ms. Sudha Pati, Adv., Ms Mamta Rani and Ms. Prerna Kumari, Advs.

Respondent No. 1 :

Mr. Karan Singh, Adv. For MoEF

Respondent No. 3 :

Mr. D. Rajeshwar Rao, Adv. Counsel for Transport Deptt. and Delhi Police, GNCT, Delhi

Respondent No. 5 :

Ms. Savitri Pandey along with Ms. Azma Parveen, Advs. for State of UP.

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advs. For State of Haryana

Mr. RajKumar Adv. with Mr. SL Gundli, SLO for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 156 to 158 October 7, 2015	We have heard the learned Counsel appearing for the parties including the learned Counsel appearing for the NCT of Delhi, State of Haryana, State of UP, NHAI and other authorities. It is a conceded position before us that vehicular pollution is one of the main sources of polluted air in Delhi. We have already passed detailed directions in

		relation to all known sources of air pollution which are adversely affecting the air quality in NCT of Delhi. They are dust, emissions from burning and pollution resulting from vehicular emissions. All the earlier orders passed by the Tribunal would continue to be in force without any change or alterations. We direct all the concerned authorities to carry out the directions and the preventive steps recorded in the orders of the Tribunal passed from time to time. Keeping in view the heavy vehicular pollution in Delhi primarily resulting from heavy vehicles and even more specifically the diesel vehicles which are primarily used for transportation of goods and other materials, there has been some controversy even in regard to number of vehicles which enter Delhi everyday from its different entering points. However, a statement has been filed today on behalf of the NCT of Delhi (Traffic Police) that nearly 66069 commercial vehicles of different kinds enter Delhi out of which, 6 wheel trucks, 10 wheel trucks and 14 and above wheel trucks account for approximately 14000. These heavy vehicles are not destined to terminate at Delhi. They include more than 25% vehicles which are enroute and just pass through Delhi for convenience, better road and less toll tax. It is stated before us that the low toll tax is an incentive for heavy vehicles to pass through Delhi rather than take alternative routes which would reduce the pollution level on the one hand and on the other hand would even be more convenient for transportation purpose as they could turn to their direct destination like UP and Rajasthan without entering Delhi from side

	of the Sonipat/Panipat. The charges payable at Delhi are Rs. 600/- while for the vehicles passing through Haryana they are Rs. 930/- to 1550/- depending upon the kind of trucks that are entering. It is undisputed before us that not only from the side of the respondents, but even the applicant, that alternative routes for heavy vehicles should be adopted in order to de-congest Delhi traffic as well as to improve the air quality in Delhi. As regards the different alternative routes that have been suggested after deliberations, we are of the considered view that the heavy vehicles destined for places other than Delhi could be diverted at Panipat in Haryana through Rohtak and be directed to take the route Panipal - Bawal, NH-71A & 71 which will exit at NH-8 at Bawal. It is further pointed out that the alternative route is dual carriage four lane and can be conveniently used for heavy vehicular traffic. The other aspect is with regard to the pollution being caused by the heavy vehicles particularly the transportation vehicles whether destined for Delhi or enroute Delhi. All these vehicles, must pay environmental compensation in terms of Sections-15 & 17 read with Section-14 of the National Green Tribunal Act, 2010 for the pollution being caused. The undue incentive derived by the heavy vehicles to enter Delhi, just to save Rs. 1000/- or so does not appear to be reasonable and environmentally tolerable. Therefore, considering the quantum of tax being collected by the NCT of Delhi as well as the fact that there is no material travel distance difference, in our considered view it will

		be appropriate to direct the checking posts provided by the NCT of Delhi, under the orders of the Tribunal and even otherwise, to charge the heavy transport vehicles entering NCT of Delhi with their final destination Delhi or enroute to other places entering from Sonipat side to pay environmental compensation in addition to the toll tax payable by them @ Rs. 700/- for 2 axle, Rs. 500/- for 4 and above axle and Rs. 1000/- for 3 axle heavy vehicles. In light of the above, we pass the following directions: 1. All the trucks, heavy vehicles irrespective of 2, 3 and 4 axle and above, destined for places other than Delhi shall be diverted at Panipat toll plaza to adopt the alternative route afforested that is Panipat, Bawal, NH-71, 71-A which would exit at NH-8 across Bawal. The trucks and heavy vehicles entering Delhi would pay environmental compensation as follows i.e. Rs. 700/- for 2 axle, Rs. 500/- for 4 axle and Rs. 1000/- for 3 axle. 2. The above amount would be in addition to the toll tax otherwise payable by them in accordance with law in force. The amounts collected on account of the environmental compensation would be paid to the DPCC, which shall utilize it for taking steps for improving the air quality in Delhi and a separate account in that behalf would be maintained. The amount will be collected by the NCT of Delhi toll posts and diverted to the DPCC. The amount so collected, for improving the air quality of Delhi, would be spent by the CPCB and

		DPCC on joint projects. 3. The vehicles which are enroute Delhi and have not taken the alternative route as directed at Panipat, would not be permitted to enter Delhi and would be returned to Panipat to take the alternative route. 4. The check posts already created under the orders of the Tribunal would be entitled to direct these vehicles to return to Panipat or other alternative route. 5. The NHAI or any of its assignee or concessionaire and the State of Haryana would be responsible for diverting the trucks to the alternative routes. However, the principal liability to implement these directions will be that of the Government and the public authorities and NHAI. 6. These directions would equally apply on return traffic entering from Bawal which will be diverted to Panipat without entering NCT of Delhi and will pass through NCT of Delhi, Gurgaon, Faridabad, Ghaziabad and Bahadurgarh. 7. The Central Pollution Control Board (CPCB) and the DPCC are hereby directed to purchase and/or arrange proper mechanism and instruments for checking emissions of moving overloaded heavy vehicles, as measuring the emissions of standing vehicles, particularly transportation vehicles, would never depict correct data which are the basic cause for raising particulate matter and carbon content in the air. 8. In the meanwhile, we direct the Joint

		Commissioner (Traffic Police) of Delhi, Joint Commissioner (Traffic Police) of Haryana and Joint Commissioner (Traffic Police) of Uttar Pradesh to examine if there is any possibility of adopting alternative routes from Ghaziabad and Gurgaon. 9. The learned Counsel appearing for the State of Haryana submits that the work on Western Expressway, which will completely by pass NCT of Delhi, is in progress. They will abide by the undertaking given to the Tribunal and ensure that first phase is completed by January, 2016 and made operational. We direct the State of Haryana to ensure that the Western Expressway is made operative strictly in terms of the undertaking furnished and the orders of the Tribunal. 10. The learned ASG appearing for the NHAI submits that the work of Eastern Expressway, which had not been awarded for the last more than five years, has already been awarded. The NHAI is in the process of taking possession of the land and would ensure expeditious completion of the project. We direct the NHAI accordingly. The local authorities are directed to facilitate the progress of the said project. 11. We allow the vintage sports activity to be conducted on 18th October, 2015, with the same restrictions as already directed by the Tribunal under its various orders. It will be a one day sports activity. The vintage cars would not be

	driven on the roads for regular transportation. 12. In the meanwhile, we in furtherance to the directions contained in the previous orders of the Tribunal direct the CPCB, MoEF and the Ministry of Transportation, Government of India to identify the places which have least car population density and have more area for dispersion and dilution of the emissions. All other matters and miscellaneous applications would be taken up for hearing on the next date of hearing which is 2nd November, 2015. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Prof. A.R. Yousuf) ,EM (Ranjan Chatterjee)

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

Original Application No. 21/2014

And

M.A. No. 284 of 2015

In

Original Application No. 21/2014

And

Original Application No. 21/2014

(M.A NO. 155/2015, M.A NO. 394/2015, M.A NO. 412/2015 TO M.A NO. 414/2015, M.A NO. 420/2015, M.A NO. 502/2015, M.A NO. 618/2015, M.A NO. 631/2015, M.A NO. 683/2015, M.A. NO. 778/2015, M.A. NO. 812/2015, M.A. NO. 1014/2015, M.A. NO. 1015/2015, M.A. NO. 1029/2015, M.A. NO. 1086/2015, M.A. NO. 1313/2015, M.A. NO. 156/2016, M.A. NO. 172/2016, M.A. NO. 211/2016, M.A. NO. 253/2016, M.A. NO. 268/2016, M.A. NO. 358/2016, M.A. NO. 360/2016, M.A. NO. 406/2016, M.A. NO. 475/2016, M.A. NO. 476/2016, M.A. NO. 521/2016, M.A. NO. 523/2016, M.A. NO. 523/2016, M.A. NO. 545/2016, M.A. NO. 564/2016 , M.A. NO. 567/2016 , M.A. NO. 578/2016 , M.A. NO. 660/2016 , M.A. NO. 661/2016 , M.A. NO. 545/2016 & M.A. NO. 567/2016)

And

Original Application No. 95/2014

And

Original Application No. 303/2015

IN THE MATTER OF :

Vardhaman Kaushik Vs. Union of India & Ors.

And

Vardhaman Kaushik Vs. Union of India & Ors.

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Vardhaman Kaushik Vs. Union of India & Ors.

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Supreme Court Women Lawyers Association Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Present:	Applicant:	Mr. Sanjay Upadhyay and Mr. Salik Shafique, , Advts.
	Respondent No. 1:	Ms. Panchajanya Batra Singh, Advts. For MoEF & CC Mr. Rajiv Bansal and Mr. Kush Sharma, Advts. For DDA Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Advts. for Transport Deptt. and GNCTD Mr. Raman Yadav, Adv. for GDA Mr. Om Prakash, Adv. for Ministry of Railways Ms. Sakshi Popli, Adv. for NDMC Mr. R. Rakesh Sharma and Mr. Maruthasamy, Advts. for State of Tamil Nadu & TNPCB

Mr. Abhishek Yadav, Adv. for State of U.P.
 Mr. Pinaki Mishra, Sr. Adv. with Mr. Mukesh Verma, Advs. For MPCB/State of Maharashtra
 Mr. Taruna A. Prasad, Adv. for MoEF
 Mr. D. Rajeshwar Rao and Mr. Charanjeet Singh, Adv. for PWD, Delhi Police and Transport Dept.
 Mr. Devraj Ashok, Adv. for State of Karnataka and KSPCB
 Mr. Ardhendumauli Kumar Prasad and Mr. Panshul Chandrachud, Advs. For MoUD/PNG R.No.-2-6
 Mr. V.K. Shukla, Adv.
 Anil Grover, AAG and Mr. Rahul Khurana, Advs. for State of Haryana
 Shiv Mangal Sharma, AAG with Mr. Saurabh Rajpal and Mr. Adhiraj Singh, Adv. for State of Rajasthan & RSPCB
 Mr. Pragyan Pradip Sharma and Mr. Ravi Kant Paul, Advs. For State of Mizoram
 Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs. for State of Telangana
 Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO, DPCC
 Ms. Puja Kalra, Adv. for North and South MCD
 Mr. Ravindra Kumar and Mr. Gudipati G. Kashyap, Advs. For NOIDA & Greater NOIDA
 Mr. Jogy Scaria and Ms. Beena Victor, Advs. For State of Kerala and KSPCB
 Ms. Asha Nayar Basu and Mr. Amit Agarwal, Advs. For West Bengal PCB
 Mr. Alpana Poddar and Mr. Raj Kumar, Advs., for CPCB
 Mr. Balendu Shekhar and Mr. Akshay Abrol, Advs. For EDMC
 Mr. Pinky Anand, ASG with Ms. Somya Rathore, Adv. Dept of Heavy Inds. Along with Mr. Rajesh Ranjan, Adv. and Mrr. Balendu Shekhar, for MoRTH, NHAI, CONCOR
 Ms. Nandini Gore and Ms. Khushboo Basi, Advs. for Tata Motors Ltd.
 Mr. Sandeep Narain and Mr. Ashok Bannidinni, Advs.
 Mr. Sarthak Chaturvedi and Mr. Rohit Pandey, Advs. For Andman and Nicobar Admin.
 MR. Edward Belho, Mr. K. Luikang Michael and Elix Gangmei, Advs. For State of Nagaland and PCB
 Mr. Darpan Wadhwa, Mr. Arjun S. And Mr. Arnav Kumar, Advs. For Applicant in MA 660 to 669/2016.
 Mr. Anil Shrivastav, Mr. Pranav Rishi, Ms. Sanyam Saxena and Ms. Astha Sharma, Advs. for Arunachal Pradesh and Pollution Control Board
 Mr. Pragyan Sharma and Mr. Ravi Kant, Advs. for State of Mizoram and Mizoram SPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Sapam Biswajit Meitei and Mr. Z.H. Isaac Haiding, Advs. for State of Manipur

Ms. Aruna Mathur, Ms. Anuradha Arputham and
Ms. Avneesh Arputham, Advs. for State of Sikkim
Mr. Suryanarayan Singh, Sr. Addl. AG for State of
Himachal Pradesh
Mr. Simranjeet Singh, Adv. for NHAI
Mr. Vijay K. Sondhi and Ms. Cauveri Birbal, Mr.
Aranyak Pathak and Ms. Avantika, Advs.
Mr. Ashish Negi and Ms. Richa Kapoor, Advs. for
Punjab PPCB
Mr. Guntur Prabhakar, Mr. Guntur Pramod Kumar
and Mr. Prashant Mathur, Advs. for State of A.P.
Ms. Priyanka Swami, Adv. for Ghaziabad Nagar
Nigam
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Rudreshwar Singh and Mr. Gautam Singh,
Advs. for State of Bihar and Bihar SPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 155 of 2015</u> This application relates to relief for vintage car, on 26th November, 2014 and 28th November, 2014. Proper orders had already been passed. No need for passing further order in this Application. Consequently, the M.A. No. 155 of 2016 stands finally disposed of. <u>M.A. No. 284 of 2015</u> Nobody is present on behalf of the Applicant. The application is dismissed for default of appearance. <u>M.A. No. 394 of 2015</u> This application practically has been rendered infrustuous and dismissed as such. However, whatever material has been placed on record, i.e. suggestions or steps to be taken and/or proposed to be taken will be taken at the time of final hearing. No further direction is being passed now. Consequently M.A. No. 394 of 2015 stands disposed of.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 412 of 2015 and M.A. No. 413 of 2015</u> The Applicant in either of these applications is not present. We have heard the Learned counsel appearing for the parties. The prayer in the application is for setting aside order of the Tribunal dated 07th April, 2015 by which it was directed that the diesel vehicles which are more than 10 years old should not be permitted to ply on Delhi roads. Firstly, this application is mis-conceived in as much as after the Tribunal passed order on 07th April, 2015, the same was challenged before the Hon'ble Supreme Court of India and the Statutory Appeal was dismissed by the Hon'ble Supreme Court of India. The old diesel vehicles undisputedly are the source of air pollution. It has been brought on record before us that even during the odd-even enforcement by the NCT, Delhi the ambient air quality of Delhi was not found to be much improved. In fact the parameters remained excessive. In our order dated 04th July, 2016 in Original Application No. 179 of 2016 – Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors. we had noticed the excessive parameters of the ambient air quality which reads as under:- <i>“Learned Counsel appearing for the Central Pollution Control Board submits that the complete and comprehensive analysis report has been placed on record. As per this report the ambient air quality in Delhi during the Odd-Even implementation period is found to be more deteriorated than the one when the said restriction was not in force.</i> <i>As per the analysis report the average value of PM_{2.5} is higher during odd-even phase than pre odd-even period. During the odd-even period it varied from 63 to 182 as against the pre odd-even when it which varied from 45 to 143. Similarly other parameters like PM₁₀, NO₂, SO₂, CO and Ozone all through the period were noticed to be higher than the pre odd-even period ambient air quality.</i> <i>The Learned Counsel appearing for the NCT of Delhi prays for time to seek instructions and</i>

Item No. 13 to 17 July 18, 2016 ss	<i>examine the impact of this report on the decision of Government of NCT of Delhi. The Counsel would also require the transport department of NCT of Delhi to give vehicular data and place the same before the Tribunal in relation to prior and during odd-even period.</i> <i>The analysis report even for the first period of odd-even policy, filed on record, is also showing similar trends.”</i> This would show that even during enforcement of odd-even, ambient air quality had hardly improved. This itself is an indicative of the fact that to the extent of pollution being caused by vehicles, it is the old vehicles which substantially contribute majorly to the air quality and therefore they must be stopped. Besides, the fact that the order passed by the Tribunal on 07th April, 2015 has already attained finality and has become binding. We in any case see no reason to vary our said order. In fact that order requires to be enforced more vigorously and effectively by the authorities concerned. It is an accepted fact, not only in India but all over the world, that the emission from diesel vehicle are more injurious to environment and consequently the health of the people than petrol or the vehicles being run on other sources of energy like CNG, Electricity etc. This vehicular pollution could be controlled by not permitting the vehicles causing emissions which would increase PM₁₀, PM_{2.5}, SO₂ and NO_x in the ambient air quality of that place. Furthermore, it is the NCR Delhi where the vehicular density is very high, the prohibitory directions have been passed. The same very vehicles could be driven in other places where there is larger space available for dispersion and dilution of vehicular emission from such vehicles. Be that as it may, we are of the considered view that

	Item No. 13 to 17 July 18, 2016 ss	there is no occasion for the Tribunal to set aside the order date 07th April, 2015. It has been pointed out by the various Authorities including Delhi Traffic Police that they have made definite attempts to stop diesel vehicles which are more than 10 years old to ply on the road, but efforts hardly had met with any success. Few challans and fines of a smaller amount have been made under the Motor Vehicle Act which has not lead to any tangible impact. It is also stated that impounded vehicles are released by Learned Magistrate in exercise of their jurisdiction under the Motor Vehicles Act. Consequently, we hereby direct that the RTOs of NCR, Delhi, Haryana, Rajasthan will deregister all the diesel vehicles which are more than 10 years of age. Upon deregistering such vehicles they will supply the list of all deregistered vehicles to the Traffic Police which in turn to take appropriate steps as already directed under the order of the Tribunal and under the provision of the Motor Vehicle Act. The Traffic Police and the RTO shall issue public notice of these orders forthwith. It is to be noticed here that other major sources of air pollution in Delhi are from dust and burning of waste for which we have already passed detailed directions separately and we required Central Pollution Control Board, Delhi Pollution Control Committee, NCT, Delhi and all other Public Authorities to file the Status report in relation to compliance of the directions already issued by the Tribunal in this case vide order dated 10th April, 2015. M.A. No. 412 of 2015 is accordingly disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 413 of 2015</u> This application is filed on behalf of DTC praying that it should be permitted to operate 56 numbers of diesel trucks, out of these 6 trucks are less than 10 years old and 30 trucks are between 10 to 11 years old and 20 are between 12-13 years old. In view of the above order, the trucks which are less than 10 years old can be permitted to run and utilized by the DTC but only for another period till they become 10 years old. The vehicles which are more than 10 to 13 years old or which are above 10 years old should be replaced immediately by the DTC by new trucks. It is to be noticed that diesel trucks are the serious contributory of the air pollution and as their emissions are more injurious to the human health besides they cause serious ambient air quality deterioration. With the above directions M.A. No. 413 of 2015 stands disposed of. <u>M.A. No. 414 of 2015</u> The Learned counsel appearing for the parties pray for time to seek instruction. List this matter on 20th July, 2016. <u>M.A. No. 420 of 2015</u> The applicant is not present however the prayer made in this application is already covered by the Tribunal, where it has been held that no route is feasible as well as for diversion of traffic at this stage. With the above observations the M.A. No. 420 of 2015 stands disposed of without any order as to cost.

	Item No. 13 to 17 July 18, 2016 ss	<u>M.A. No. 502 of 2015</u> We have heard the Learned counsel appearing for the parties. The prayer made in this application is that fire-fighting vehicles, 112 number may be permitted on the road of Delhi which are diesel vehicle. We make it clear that if the diesel fire-fighting vehicles are less than 10 years old they can ply on the Delhi road; if they are more than 10 years age, the Department shall take immediate steps to replace the said vehicle by new vehicles and old vehicles more than 10 years old would either be condemned and or they should be sent outside to the areas where air dispersion is much higher and vehicular density is less. The area are to be identified by the Government in terms of order of the Tribunal. Let the appropriate steps in that now be taken as per the order passed by the Tribunal. With the above directions M.A. No. 502 of 2015 stand disposed of. <u>M.A. No. 618 of 2015</u> Nobody is present on behalf of the Applicant. The application stands dismissed for default of appearance. <u>M.A. No. 631 of 2015</u> This application is for giving list of comprehensive suggestions in relation to vehicular pollution. The same would be considered by the Tribunal when the matter would be finally disposed of. With the above directions M.A. No. 631 of 2015 stands disposed of. No order as to cost. <u>M.A. No. 683 of 2015, M.A. No. 812 of 2015 and M.A. No. 1014 of 2015</u> In view of the order passed in M.A. No. 412 today,

	Item No. 13 to 17 July 18, 2016 ss	this application deserved to be dismissed and is hereby dismissed. No order as to cost. <u>M.A. No. 1015 of 2015</u> Application is allowed subject to just exception the certified copy of the annexures should be filed in due course. With the above directions M.A. No. 1015 of 2015 stands disposed of. <u>MA. No. 1029 of 2015</u> This application is also deserved to be dismissed, in view of the order passed in M.A. No. 412 today. The M.A. No. 1029 of 2015 stands disposed of accordingly. <u>M.A. Nos. 660 of 2016 to 669 of 2016</u> All these application are allowed subject to the conditions that all the tankers are BS-IV compliance and they are less than 10 years of age (it is stated that these are new tankers which are replacing the old tankers). Further these vehicles will only be used for transportation of fuel within the territory of Delhi. We further direct that trucks carrying national permit if they are in excess of 10 years age will not be permitted to use in NCR, Delhi. We further direct the Applicant and all similarly placed persons to gradually phase out all the diesel vehicles which carrying fuel if they are more than 10 years old. The M.A. Nos. 660 to 669 of 2016 stand disposed of accordingly.

Item No. 13 to 17 July 18, 2016 ss	<u>Main Matter</u> The noise pollution arising from horns in the vehicle, and their undue and unlawful use by car drivers even including two wheelers, and the use of pressure horns by the trucks and other heavy vehicles is a source of serious noise pollution in Delhi. It is adversely affecting the noise level in Delhi and even the sound of vehicles is the source of noise pollution particularly DTC Buses. All the concerned authorities need to pay attention to this aspect before the noise level go to an extent where it is not possible to retrieve and bring the noise level to the permissible decibel level. It is also pointed out at the bar that the noise barriers put up on the flyover are in a damaged condition and in a number of flyovers, no sound barrier or walls have been put up at all. In view of the above we direct that no vehicle of any kind plying in NCR, Delhi would be permitted to use pressure horns which are not fixed by the manufacturer of vehicles. Furthermore, we direct that the DDA, NCT, Delhi, DPCC and MoEF to file a detailed affidavits placing on record their suggestions and the methodology that are required to be adopted for controlling this menace, including the directions that should be issued by the MoEF and Central Pollution Control Board for using of horns in Delhi. Ministry of Transport also be issued Notice. Notice returnable on next date of hearing. The two wheelers who are using pressure horn or have removed their silencers should not be permitted to ply on the road on NCR Delhi. The authority would also submit their report stating as to whether the silence zone

	Item No. 13 to 17 July 18, 2016 ss	around school, hospital etc. have been identified in NCT, Delhi or not, if not, a complete and comprehensive proposal for declaring and identifying silence zone should be placed before the Tribunal on the next date of hearing. This matter be listed for further directions on 20th July, 2016, however on other issues we would give a separate date. The Original Application No. 181 of 2013 also be listed on that day. The Ministry of Heavy Industry, Government of India has taken stand that ban on vehicles should not be for period less than 15 years. We find that this contention is de-horse any study carried out by any competent agency. The Learned counsel appearing for the Ministry of Heavy Industry submits that she will place on record complete status report in relation to the viability of electric and hybrid transport system in India. Further, she will also place on record the benefits that the ministry proposes to give to the people who will buy such vehicles. We also direct that in the status report affidavit it will also be stated as to how does the Ministry propose to increase manufacturing of electric and hybrid buses and car in our country to reduce both air and noise pollution. It will also be stated as to what incentive is proposed to be given. Furthermore, it would also be stated in the affidavit as to what benefit will be provided to the persons who wishes to condemn and scrap their old diesel vehicles and petrol cars. The Ministry will issue letter to every Chief Secretary of the State within one week from today stating

Item No. 13 to 17 July 18, 2016 ss	benefits which would be available for condemning old vehicles to the people living in various parts of the country. Response of those State Governments, if received by the Ministry should be placed before the Tribunal and letter should say that Tribunal would hear the matter on merit on next date on their behalf. List this matter on 20th July, 2016. The Learned Counsel appearing for the Municipal Corporation (North and South) submits that there is a typographical error in the previous order dated 11th July, 2016, at line no. 8, it should be 10,000 Sq. Ft. instead of 10,000 Sq. Mtrs. Let the same be corrected in the order dated 11th July, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. Mr. Mukesh Verma, Adv. appearing for the State of Maharashtra and Maharashtra Pollution Control Board submits that he appeared along with Mr. Pinaki Misra, Sr. Adv. on 31st May, 2016, but their appearance could not be marked in the order sheet. Let their appearance be marked in the order dated 31st May, 2016 and corrected copy of the order be uploaded on the website of National Green Tribunal. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,JM (Raghuvendra S. Rathore)

	Item No. 13 to 17 July 18, 2016 SS	,EM (Prof. A.R. Yousuf) ,EM (Bikram Singh Sajwan)



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

**Original Application No. 21/2014
(Only Noticees – Sarojini Nagar)**

And

Original Application No. 21/2014

(M.A. No. 828/2017, M.A. No. 829/2017, M.A. No. 889/2017, M.A. No. 1177/2017, M.A. No. 1314/2017, M.A. No. 1361/2017, M.A. No. 1366/2017, M.A. No. 1371/2017, M.A. No. 1375/2017, M.A. No. 1387/2017, M.A. No. 1384/2017, M.A. No. 1431/2017, M.A. No. 14 40/2017, M.A. No. 1452/2017, M.A. No. 1453/2017, M.A. No. 1454/2017, M.A. No. 1455/2017, M.A. No. 1456/2017, M.A. No. 1457/2017, M.A. No. 1458/2017, M.A. No. 1459/2017, M.A. No. 1461/2017, M.A. No. 1460/2017, M.A. No. 1465/2017 M.A. No. 1466/2017, M.A. No. 1467/2017 , M.A. No. 1476/2017 , M.A. No. 1486/2017 , M.A. No. 148 7 /2017 , M.A. No. 148 8 /2017 , M.A. No. 14 89 /2017 , M.A. No. 14 90 /2017 M.A. No. 1493/2017, M.A. No. 1494/2017, M.A. No. 1495/2017 & M.A. No. 1496/2017)

And

**Original Application No. 95/2014
(M.A. No. 1156 of 2016)**

And

Original Application No. 303/2015

And

Original Application No. 609 /2016

And

**Original Application No. 179 of 2016
(M.A. No. 1388/2017 & M.A. No. 1389/2017)**

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.

And

Sanjay Kulshrestha Vs. Union of India & Ors.

And

Supreme Court Women Lawyers Association Vs. Union of India & Ors.

And

Diya Kapur & Ors. Vs. Union of India & Ors.

And

Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay Ms. Upama Bhattacharjee, and
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Mr. Shivam Bajaj., Adv in M.A. No. 1384
Mr. Rajneesh Bhardwaj and Mr. Raj Kishan and Mr.
Rahul Sharma and Mr. Tarun, advs
Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and
Ms. Ritwick Nanda, Adv
Mr. S.M. Ali, Special Sec., Dr. Anil Kumar, Director, Mr.
Dinesh Jindal, LO for Delhi Pollution Control Committee
Mr. Arjun S. adv.
Mr. Gaurav Dubey, Adv.
Mr. Amit Dubey, Mr. Karan Cjawla Adv.
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Mr. Udaibir Singh Kochar Adv.
Mr. Debarshi Bhuyan Adv
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Gorver Sec. Environment Rajsastha

Mr. Bhanwar Pal Singh Jadon and Dr. Sandeep Singh, Adv.
 Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Adv.
 Mr. Vijay Sondhi, Ms. Cauveri Birbal, Mr. Sarvajeet Kumar Thakur, Adv.
 Mr. Soumyajit Pani, Adv with Mr. Chittaranjan Singh, Adv.
 Dr. Sandeep Singh and Mr. Vinay Pal, Adv.
 Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv.
 for State of Uttarakhand
 Mr. Anshuman Srivastava, Adv.
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 Mr. Raman Yadav and Ms. Varnita Rastogi, Adv. for GDA
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 Ms. Kanak Bose, Adv.
 Ms. Monica Lakhanpal, Applicant in person and Mr. Vaibhav Gaggar and Ms. Sumedha Darg, Adv.
 Mr. Aman Sarma and Mr. S.S. Rebello, Adv.
 Mr. Amit Agarwal, Ms. Asha Basu Adv. for WBPCB
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 Mr. V. K. Shukla and Ms. Vijay Laxmi, Adv. for State of M.P.
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 Mr. Kshitiz Ahuja, Adv.
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 Mr. Ajay Marwah for HPPCB
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 Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv for UPPCB
 Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Adv. for DTC
 Mr. Devraj Ashok, Adv.
 Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Adv.
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Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.
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Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
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Mr. Leishangthe Roshmani Adv.
Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Mr. Satamita Ghosh, Advs.
Mr. Ardhendhumauli, Kr. Prasad, Mr. Shashank Saxena, Advs.
Mr. Anil Grover, AAG, Mr. Rahul Khurana, Adv. with S. Narayan, Member, Secretary, HSPCB
Mr. Mukul Singh, Adv. for MoEF.
Mr. Amit Agrawal, Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 27-32 December 18, 2017	When this matter came up for hearing in the earlier part of the day, we had passed the following order: We have heard the learned Counsel appearing for the various stakeholders, State Governments, local authorities and the Applicant. We have also perused the action plans/affidavits submitted on behalf of the States of Uttar Pradesh, Rajasthan, Haryana, Punjab, NCT of Delhi, MoEF&CC and the Applicant. Keeping in view the limitation of time, we would dictate the detailed order during the course of remaining day. Thus now, we proceed to record the detailed order. All the States concerned with NCR Delhi i.e. NCT of Delhi, State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab have filed their Action Plans in furtherance to the orders of the Tribunal. It is stated that these Action Plans have been prepared with reference to the Graded Response Action Plan (for short, “GRAP”), directions issued by Courts as well as judgments of the Tribunal in <i>Vardhman Kaushik vs. Union of India</i> . There are two fundamental aspects that need to be considered by the Tribunal for issuance of the directions in preventing and controlling the air pollution in NCR of Delhi. Firstly, that the Tribunal has passed a detailed judgment dated 10th November, 2016 in the case of <i>Vardhman Kaushik vs.</i>

	Item Nos. 27-32 December 18, 2017	<i>Union of India</i>, in Original Application No. 21 of 2014 which deals with all the sources of air pollution and the preventive steps that should be taken by all the concerned stakeholders including different Departments of the States. Secondly, the Tribunal had also passed a separate judgment dated 10th December, 2015 in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i>, Original Application No. 118 of 2013 in relation to the crop residue burning in these States to prevent and control the deterioration of ambient air quality as a result of indiscriminate crop residue burning. The GRAP has provided detailed guidelines. The concerned State Governments have not been able to implement these directions in their true spirit. The non-implementation of these directions is largely attributable to inaction and non-cooperation between the various departments of the State and the Governments of the different States. If the ambient air quality of NCR of Delhi has to be improved then there has to be a common framework, including all precautionary, preventive and punitive measures which should be uniformly applied by all the States. The various State Governments have classified the pollution levels under different categories. Each category has been assigned the lowest as well as the highest value in that category. There is no unanimity in such categorization. For instance, the Delhi Government has under Category-I, which is supposed to be the minimum has provided the value of PM₁₀ greater than 500 µg/m³ and PM_{2.5} greater than 300 µg/m³ to start taking the steps that are stated under this category. According

	Item Nos. 27-32 December 18, 2017	to the State of Uttar Pradesh they will start taking steps once the value is greater than $61 \mu\text{g}/\text{m}^3$ and less than $90 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ and PM_{10} is more than $101 \mu\text{g}/\text{m}^3$ and less than $250 \mu\text{g}/\text{m}^3$. Similarly, the other States have also provided different prescribed value. We may notice that value of PM_{10} is $100 \mu\text{g}/\text{m}^3$ while the $\text{PM}_{2.5}$ is $60 \mu\text{g}/\text{m}^3$. We may notice that these are not the only two pollutants which are responsible for causing pollution and adversely affecting the human health. There are other constituents i.e. SO_2, NOX, Hydro-Carbon, CO, BTEX, VOC and other components which have direct impact on human health. Thus, an approach has to be adopted which is more precautionary and preventive rather than curative. Importantly, the authorities are bound to take recourse of precautionary principle and ensure decent and clean environment to the public at large, living in NCR Delhi and in fact all over the country. It is commonly conceded before the Tribunal by all the stakeholders that there is very bleak possibility of bringing the ambient air quality of NCT of Delhi/NCR Delhi within the prescribed parameters of PM_{10} at 100 mg and $\text{PM}_{2.5}$ at 60 including the values of other pollutants that we have referred above. The State of Punjab has not even filed an action plan as contemplated under the orders of the Tribunal. It has just filed an affidavit stating that they would be installing ambient air quality monitoring stations that would measure 12 parameters on real time basis. Despite the fact that all the State Governments were directed to file action plans taking into consideration the

	Item Nos. 27-32 December 18, 2017	guidelines provided in GRAP, the judgments of the Courts and the Tribunal, as afore-stated, all the State Governments have filed the action plans which are not only at substantial variance, but in fact, go contra to each other. It is not only difficult but impossible to reconcile all these plans. The measures or steps to be taken under the respective action plans are entirely at variance even with regard to the same categorization. States of Uttar Pradesh, Rajasthan and Haryana have framed four categories while NCT of Delhi has framed three categories relatable to different values of ambient air quality in their action plans. We may notice that vide Notification dated 4th July, 2016, the Central Government in furtherance to the order of the Hon'ble Supreme Court of India dated 7th January, 1998 passed in W.P. (C) No. 13029 of 1985 reconstituted the Environmental Pollution (Prevention and Control) Authority (for short, "EPCA"), realizing that the high level of air pollution in NCR Delhi/NCT of Delhi was a matter of serious concern and required urgent measure. In compliance to the order of the Hon'ble Supreme Court dated 2nd December, 2016, the Central Government <i>vide</i> its Notification dated 12th January, 2017 reconstituted EPCA as implementing authority for GRAP. During the pendency of this application on different occasions, ambient air quality reports were filed by the CPCB, DPCC and even the Applicants and all the reports clearly demonstrate that all the parameters were found to be excessive.

	Item Nos. 27-32 December 18, 2017	We would just refer to the reports placed on record by the CPCB prepared on the basis of the data collected by it from October 2015 to January 2016. This report has categorized the pollution levels into good, satisfactory, moderately polluted, poor, very poor, severe and severe+ where the value of PM_{2.5} in ambient air quality would be more than 300 µg/m³. Strangely, at no point of time, the ambient air quality was found to be good in NCR Delhi. In fact, it was found to be poor and severe and above 60% in the month of October, 2015, 73% in November 2015, 67% in December 2015 and 68% in January 2016. Similarly, values of ambient air quality in relation to PM₁₀ was found to be excessive for 66% in the month of October 2015, 87% for November 2015, 75% for December 2015 and 72% for January 2016. This statistics clearly shows that all the time, the ambient air quality of NCT of Delhi is polluted and for most of the period of the month it is severe and above. This is the quality of air that we are providing to the people living in NCR Delhi and NCT of Delhi. It is a clear violation of their fundamental right. The Supreme Court of India has declared right to decent and clean environment as a fundamental right within the ambit and scope of Article 21 of the Constitution of India. The Legislature enacted the laws for protection of environment and natural resources. The Constitution of India in terms of Article 47 (A) and 15 (A) (g) read with Article 21 mandated the State to protect the environment and imposed fundamental duty upon the

	Item Nos. 27-32 December 18, 2017	citizens to protect the environment and the natural resources and the judiciary to ensure the protection of the fundamental rights granted to the citizens of India. That is the stature provided to protection of environment, ecology and the natural resources in our country. The right to life has been infringed with impunity by the persons, Authorities and States upon whom lay Constitutional and statutory obligations to provide decent and clean environment to the public at large, particularly in relation to inhaling of clean air and drinking clean water. The Central Pollution Control Board has provided monitoring stations in various parts of NCT of Delhi, the analysis reports clearly show persistent hazardous ambient air quality not only in NCT of Delhi but even in NCR of Delhi and other parts of the country. It is undisputable and, in fact, has been exhibited in various platforms including display sites of Central Pollution Control Board and Delhi Pollution Control Committee where the value of PM₁₀ and PM_{2.5} is in flagrant violation to the prescribed value. It is surprising that the Central Pollution Control Board, Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters in the samples collected by them. Some of States claim though they have tested their parameters however, none of the display board displays results. The components like SO₂, NO₂, CO and Ozone which have a serious impact on the quality of the ambient air more often not remained ignored. Undoubtedly, they have serious impacts on human health as well.

	Item Nos. 27-32 December 18, 2017	The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stage. The fundamental rights particularly which relates to right to life cannot be subjected to economic limitation. More often than not, the Supreme Court has held that the normally economic limitations cannot be raised as a defence to fundamental right, particularly right to life. We are informed that certain directions have been issued by the administration which certainly are not adequate and they do not comply with the judgment of the Tribunal, despite the fact that the matter was kept pending and various applications have been filed for different purposes. There is no Authority which is able to show the effective compliance of the directions contained in the judgment, this coupled with the above situation and apparent non-cooperation and no coordination amongst the various wings of the States and its instrumentalities has led to environmental degradation. In the judgements of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 decided on 10th November, 2016, <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 decided on 10th December, 2015, this Tribunal had passed directions in greater detail stating the steps/measures that should be taken by the State Governments, local authorities and the concerned stakeholders for improving the ambient air quality in and around NCT of Delhi. It is not necessary for us to refer to those orders at this stage. Suffices it to note that the orders were passed in great detail with specific

	Item Nos. 27-32 December 18, 2017	directions but unfortunately they remained un-complied. Amongst other, seven major contributors of air pollution are as under: 1. Construction activity and carriage of construction material 2. Burning of Municipal Solid Waste and other waste. 3. Burning of agriculture residue. 4. Vehicular Pollution. 5. Dust on the roads. 6. Industrial and thermal power house emission including fly-ash. 7. Emissions from Hot-Mix Plants and Stone Crushers. In this judgment, the Tribunal had noticed all the sources of pollution of ambient air quality and the manner in which preventive and precautionary steps are to be taken for tackling the pollution from each source. The judgment also directed taking of punitive steps/actions wherever the situation demanded and/or there was violation of the directions passed by the Tribunal. We are of the considered view that there is no dearth of existing laws, guidelines and directions of the Court in relation to prevention and control of pollution of the ambient air quality in NCT of Delhi but it is the implementation of laws and directions that is entirely wanting. Now, we will deal with the fundamental issues arising for consideration of the Tribunal in the present case. This relates to categorization. 'Categorization' has

Item Nos. 27-32 December 18, 2017	all through been a matter of debate before different <i>forums</i>, including the authorities which had the statutory responsibility for prevention and control of air pollution. The CPCB has already created six categories which refer to different levels of pollution and these are good, satisfactory, moderately polluted, poor, very poor, severe and above severe. The GRAP has formulated five categories, i.e., severe+ or emergency, severe, very poor, moderate to poor and moderate. The different States have differently categorized its level of pollution and there is no uniformity. It needs to be noticed here that as per the GRAP, if PM_{2.5} is between 61 µg/m³ to 90 µg/m³ and PM₁₀ is 101 µg/m³-250 µg/m³, it would be treated as of moderate pollution. Government of NCT of Delhi though refers to the GRAP but while providing parameters of category-I when the action would start for prevention and control of pollution, the values reflected for that category of the Ambient Air Quality is PM₁₀ less than 500 µg/m³ and PM_{2.5} less than 300 µg/m³, which means that hardly any action would be taken with reference to the Precautionary Principle when the values exceed the prescribed values, i.e., above 100 µg/m³ in the case of PM₁₀ and 60 µg/m³ in the case of PM_{2.5}. In our considered view, we feel that within the prescribed framework of GRAP and the CPCB, this concept of categorization needs clarity and certainty. The Tribunal consider it appropriate and, therefore, direct that there shall be four categories in relation to pollution of AAQ and also states the steps that must be taken to prevent and control of such pollution. The pollution levels in ambient air quality can fairly be

Item Nos. 27-32 December 18, 2017	classified as follows: 1) Category I (Average): When PM₁₀ is more than 100 µg/m³ but below 300 µg/m³ and PM_{2.5} is more than 60 µg/m³ but below 180 µg/m³. 2) Category II (Severe): When PM₁₀ is more than 300 µg/m³ but below 700 µg/m³ and PM_{2.5} is more than 180 µg/m³ but below 400 µg/m³. 3) Category III (Critical): When PM₁₀ is more than 700 µg/m³ but below 1000 µg/m³ and PM_{2.5} is more than 400 µg/m³ but less than 600 µg/m³. 4) Category IV (Environmental Emergency): When PM₁₀ is above 1000 µg/m³ and PM_{2.5} is above 600 µg/m³. The levels of pollutants in the AAQ have direct nexus to public health. Higher pollutants in the AAQ have higher health impacts and risks to life. The need for complying with the precautionary principle and take timely action to prevent higher pollution has been emphasized in the above and even the previous orders of the Tribunal. It is the need of hour that all authorities and stakeholders must make concerted efforts to tackle major environmental problems of the present times. This can be tackled only by taking varied but appropriate steps at the appropriate stage. It is expected of all concerned, including the State and the citizens, to equally participate in tackling these environmental menaces. Collective responsibility can only provide the solution in resolving this. At the very outset, we reiterate the directions issued by this Tribunal in its judgments of <i>Vikrant Kumar</i>

	Item Nos. 27-32 December 18, 2017	<i>Tongad and Vardhaman Kaushik</i> (supra) and order dated 4th December, 2014 in <i>Vardhman Kaushik</i> and direct that all those directions shall apply <i>mutatis mutandi</i> and be read as part of this judgement. Therefore, we state the steps/measures that should be taken by State Governments, local authorities, stakeholders including the people at large, relatable to a particular category afore-stated. 1) Action/Steps to be taken when the pollution level fall in Category I: a) All concerned should make every effort to increase the green/forest cover. There shall be complete prohibition of burning of garbage, biomass and/or any kind of waste anywhere. Violation thereof would invite the penalty of ₹5000/- for each default (order dated 28th April, 2015). The respective Corporations, Local Authorities, Pollution Control Boards and police authorities would be responsible for ensuring this compliance. b) The Pollution Control Boards, Local Authorities and the State Governments should ensure stringent enforcement of all pollution laws, particularly, in relation to the industries or activities which cause emissions into the air for carrying on their activity. There should be regular inspection of Thermal Power Plants through the respective Pollution Control Boards and the Local Authorities to ensure that the Thermal Power

	Item Nos. 27-32 December 18, 2017	Plants are not emitting any gases or substances in excess of prescribed limit. c) The States and its instrumentalities shall encourage composting of biomass. d) Mechanized sweeping of roads. e) Regular checking of vehicles to ensure that they are maintaining their emissions within the prescribed values. f) Organizing public awareness programmes for prevention and control of air pollution. g) The vehicles which are more than 10 years old in the case of diesel and 15 years old in the case of petrol, should not be permitted to ply on the roads and they should be seized. Such vehicles should be deregistered by the concerned RTO. Steps should be taken to ensure free flow of traffic. Overloading of heavy vehicles should not be permitted and the vehicles which are found to be overloaded should be challaned and they should also pay environmental compensation in terms of the order dated 7th October, 2015 of the Tribunal. Strict vigilance should be maintained for visible emissions likely to cause air pollution and appropriate action be taken, without delay and default. The Government shall also provide the due incentive for scrapping of old cars as well as provide concession in registration of new cars to such car owners (order dated 28th July, 2016). h) All State Governments and their instrumentalities including public authorities shall ensure that

	Item Nos. 27-32 December 18, 2017	there is no crop residue burning in the agricultural fields or anywhere else. Due incentives and even machines like happy seeder, etc. should be provided to the farmers wherever necessary and recourse to punitive provisions should be taken. The State Government, its instrumentalities and the monitoring Committees shall take effective steps through publicity (print or electronic media) to inform the farmers at large the adverse impacts of burning of crop residue upon the environment, public health and the soil on the one hand. While on the other, utilising crop residue for providing them some income for productive and beneficial purposes like fuel in plants, bio-mass or thermal, manufacturing of boards, compact wood and such other useful items. i) When the car/vehicle stops on red traffic lights, the owner/driver of the vehicle should be directed to put off ignition of the car. For this purpose, the traffic police and other regulating agencies should propagate and advice the driver of the vehicle to take such precautionary steps. In the event of default, the traffic police should enforce the same in accordance with law as it would prevent avoidable vehicular emissions. j) All State Governments should identify and provide alternative routes for heavy vehicles outside the cities so that there is no traffic congestion in the city, particularly, NCT of Delhi. The heavy transport

	Item Nos. 27-32 December 18, 2017	vehicles whose final destination is not Delhi but enter Delhi en-route, shall not be permitted to enter Delhi. Such traffic should be diverted from Sonipat and Panipat. k) All efforts should be made to operationalise Western Expressway and Eastern Expressway. NHAI, Central Government and the concerned State Governments shall fully cooperate and provide assistance for the same. l) The State Government and all its instrumentalities shall endure their best to introduce battery and electric mass transportation system, incentives/ concession shall be provided for buying the hybrid vehicles. m) The State Government and the concerned departments should take effective steps to enhance public transport facilities and provide due infrastructure in that behalf. It will be ensured that public transport become more user-friendly. Due prevention should be taken to ensure that empty buses do not ply on the roads, proper time table relatable to the passenger peak load should be prepared by DTC and all other stakeholders. The State Governments, transport authorities and all other concerned agencies particularly NCT of Delhi, shall provide destination buses which will have not more than three bus stops within the colony of its origin and then would go non-stop to its point of termination. The destination buses could be ordinary buses

	Item Nos. 27-32 December 18, 2017	but preferably should be air conditioner buses. This direction must be complied with now, without delay and default (order dated 20th April, 2017). n) In this behalf the other directions stated in the order of the Tribunal dated 4th December, 2014 should also be complied with in terms of the order of the Hon'ble Supreme Court and this Tribunal. No vehicles which are BS-I, BS-II compliance would be permitted to ply on the roads, this will include heavy as well as light vehicles. o) The Government and all its concerned departments shall put a cap on the number of vehicles of all kinds that can ply in NCT of Delhi. Government should formulate policy of putting higher registration fee and road tax on purchase of second vehicle by the same person, body, company, society or trust. p) No parking should be permitted on the metalled roads. Parking at Multi-level or earmarked parking should be encouraged and incentives be provided in that behalf. q) All builders involved in construction of buildings, howsoever, small or big would ensure compliance to the laws in force and the directions of the Tribunal. No dust should be emitted during demolition. No construction material should be kept on the roads. The construction material inside the plot should also be kept in covered conditions and labour should be provided with all

	Item Nos. 27-32 December 18, 2017	anti-pollution gears during the course of construction. The State Governments, Pollution Control Boards and local authorities shall maintain due vigil in this regard (order dated 4th December, 2014). r) Regulation of hours and vehicles for loading and unloading of vehicles particularly in the congested area (order dated 16th March, 2015). s) All steps shall be taken by the State Governments, Horticulture Department, Corporation, Directorate of Education and all the private schools that to ensure increase of green belt in their respective schools within a period of one month from the date of pronouncement of this order. Large number of trees should be planted. 2) Category II (Severe)-Action and measures to be taken and penalties to be imposed: 1. All the steps directed under category I shall continue to be strictly enforced in relation to this category as well. 2. All the brick kilns, thermal plants and heavy industries which are causing emissions would be instantaneously stopped and inspected by Pollution Control Board and all other concerned authorities and if their emissions are found to be beyond the prescribed standards, such plants shall be directed to be shut down. 3. Intensifying public transport service and taking rigorous steps for avoiding traffic congestion particularly at peak hours.

	Item Nos. 27-32 December 18, 2017	4. Increasing the frequency of public transport, mechanized cleaning of roads and seizure of any diesel generator found emitting in excess of prescribed standards and no permission for its usage for any purpose whatsoever. 5. There shall be complete prohibition on burning of any material, waste or bio-mass. The Government shall issue warning to the public at large requiring them to take appropriate precautionary steps and not to expose themselves to the high pollutants during particular hours of the day. 6. The Government shall immediately take steps for segregating the office time for various offices including the Government Departments. The Government shall provide destination buses and make every effort to discourage the use of private vehicles, including two-wheelers, cars and heavy vehicles. 7. All necessary steps should be taken to ensure that the construction activity is carried on strictly as per prescribed guidelines and the directions of the Tribunal. The transportation of the construction material should also be strictly in accordance with the directions issued earlier such as ensuring that carrying of construction material of any kind, particularly sand, cement, etc., is done after properly covering the transportation vehicle. In default, the concerned Government, Board and the local authority shall invoke the penal directions in regard to payment of environmental compensation

	Item Nos. 27-32 December 18, 2017	at the rate of ₹5,000/- per event for transporting material in violation of directions and ₹50,000/- in relation to storage of construction material of any kind (order dated 11th December, 2015). 8. All State Governments should identify and provide alternative route where there is no traffic congestion in the city, particularly, NCT of Delhi so that the heavy transport vehicles whose final destination is not Delhi but en-route they enter Delhi, shall not be permitted to enter Delhi and such traffic would be diverted from Sonipat and Panipat. In the event they enter Delhi then they shall be liable to pay environmental compensation at the rate of ₹700/- for 2 axles, ₹500/- for 4 axle and ₹1000/- for 3 axles. 3) Category III Critical (Measures required to be taken)- Category III would relate to pollution of ambient air quality, i.e., severe and high and without exception have serious adverse impacts on public health and environment. Thus, the measures that are required to be taken under this category have to be preventive and punitive both. 1. All the directions contained under category I and II shall be enforced without default and delay. All those directions shall <i>mutatis mutandi</i> apply under this category as well. 2. The construction shall be stopped immediately and no construction would be permitted during the duration when the PM₁₀ is falling under this category, particularly,

	Item Nos. 27-32 December 18, 2017	towards the higher value i.e. 1000 µg/m³ or PM_{2.5} is towards higher value of 600 µg/m³. 3. There shall be complete prohibition on burning of crop residue and all the departments concerned, particularly, the Pollution Control Board and the Government Department would take recourse to the punitive provisions for payment of environmental compensation in terms of the judgement of this Tribunal in the case of <i>Vikrant Tongad vs. Environment Pollution (Prevention and Control) Authority & Ors.</i> dated 10th December, 2015. Officers who are found to be avoiding performance of their statutory duties in consonance with these directions would be liable to departmental action in accordance with law. 4. There shall be complete prohibition on transportation of construction material during the relevant period. 5. To avoid traffic congestion and consequential air pollution, the scheme of odd and even shall be implemented by the respective State Governments/Departments of the State. 4) Category IV (Environmental Emergency): The directions and steps directed hereinafter shall be carried out by the State Governments, concerned Departments, Local Authorities and all the stakeholders, when PM₁₀ exceeds 1000µg/m³ and PM_{2.5} exceeds 600µg/m³, respectively. 1. All the directions under category I, II and III, respectively shall apply <i>mutatis mutandis</i> even to this category. All State Governments would

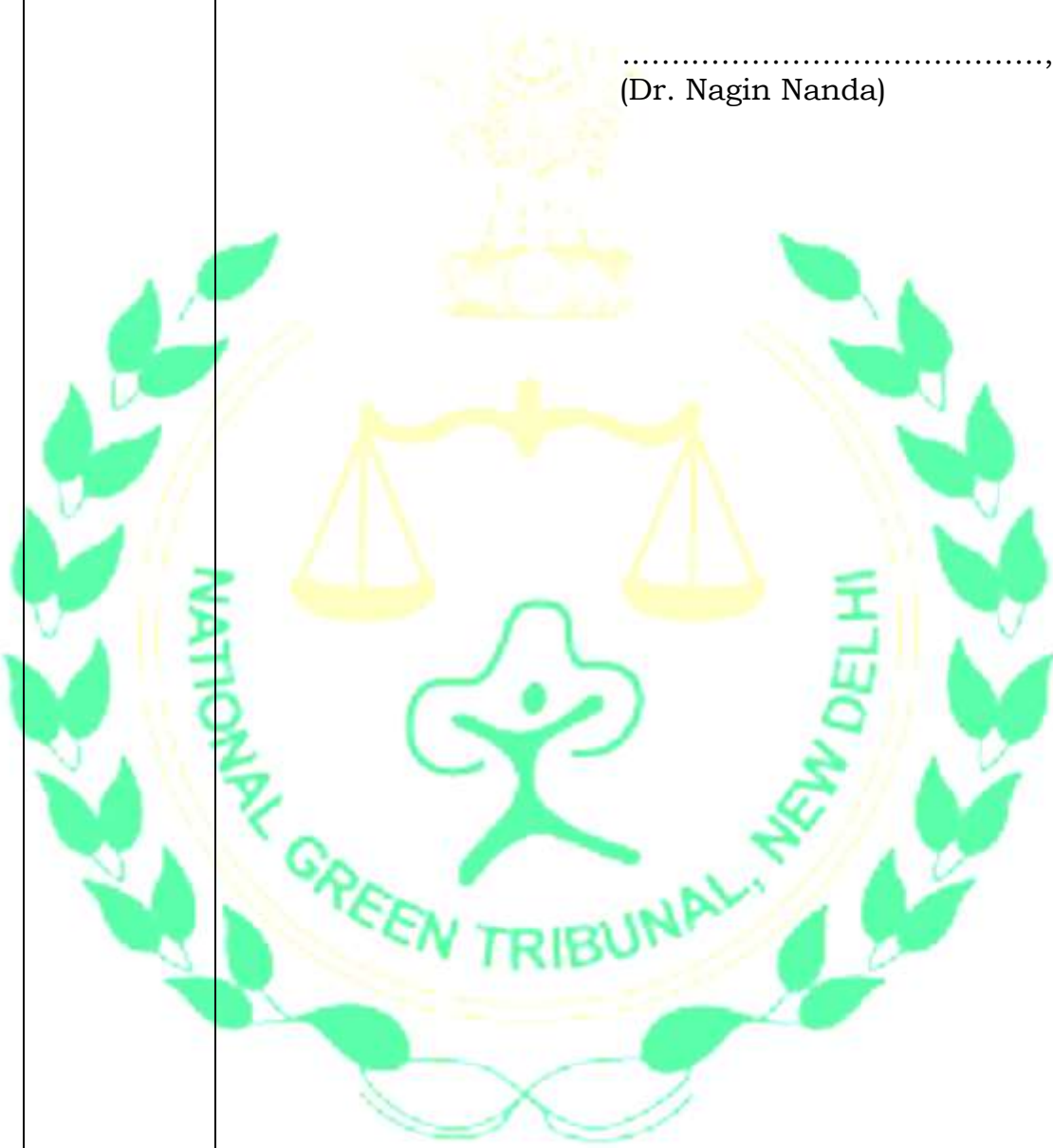
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental compensation to the extent of Rs. 1 Lakh for every default. ii) All the brick kilns functioning in NCR Delhi shall be closed. iii) There will be complete and absolute prohibition on burning of all agricultural residues. Penal actions shall be taken and environmental compensation imposed in accordance with the orders on the defaulters/offenders. iv) All the Thermal Power Plants in NCT of Delhi shall not operate. v) There shall be complete prohibition and ban on lifting, transportation and generation of fly ash. The concerned State Government and Authorities shall sprinkle water from the high rising buildings or through helicopters to ensure that excessive parameters are immediately brought down to reasonable limits. vi) There shall be complete prohibition on use of DG sets. The trucks and heavy vehicles carrying material including trailers shall be

	Item Nos. 27-32 December 18, 2017	prohibited from entering NCT of Delhi. Only the heavy vehicles carrying essential goods like medicine, food etc. would be permitted, while all other heavy vehicles will not be permitted to enter NCT of Delhi for the duration of Environmental Emergency. vii) Whenever there is environmental emergency, i.e., PM₁₀ exceeds 1000 µg/m³ and PM_{2.5} exceeds 600 µg/m³ then the NCT of Delhi shall consider and pass appropriate orders in regard to closure of the schools for that period. The period for which the schools remain closed as a result of passing of such order would be treated non-working days and would not contribute towards the percentage of attendance. The schools would be provided with an option to run on weekend following the closure period, if they so desire. viii) The Central Government and NCT of Delhi and all other State Governments shall issue guidelines in relation to use of bursting of crackers including kind of crackers that can be burst and the area where such activity would be prohibited and/or permitted, duration thereof and under what event and circumstances. There shall be complete prohibition on bursting of crackers. Such guidelines shall

		be issued within a period of two months from the date of passing of this order. GENERAL DIRECTIONS: 1. All the above directions and the directions contained in the orders of the Tribunal dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 all in the case of <i>Vardhaman Kaushik</i> (supra) and 10th December, 2015 in the case of <i>Vikrant Kumar Tongad</i> (supra) shall be implemented and enforced by the concerned State Governments, its Departments, instrumentalities, local authorities and all the stakeholders, without delay and default. 2. Implementation of these directions is mandatory and no authority shall have any discretion to vary their implementation in any form. They shall come into force and be implemented automatically with reference to the extent of pollution in the ambient air quality of NCT of Delhi 3. Odd and Even Scheme shall be applied in terms of these directions without any exception. No Authority would be entitled to use any discretion in enforcement of this direction. 4. The State Governments and all concerned agencies particularly the Pollution Control Boards shall prosecute by filing appropriate complaints in terms of Section 15 of the Environment (Protection) Act, 1986, against the defaulters and offenders of these directions and the environmental laws in force,

		without delay and default. 5. The environmental compensation imposed in terms of these directions against any defaulter or violator shall be recovered in accordance with law by the concerned State, Agencies, Boards, Local Authorities, etc., without delay and default. 6. The environmental compensation collected under the directions of the Tribunal in terms of orders/judgement dated 4th December, 2014, 10th April, 2015, 20th July, 2015, 7th October, 2015 and 10th November, 2016 in the case of <i>Vardhman Kaushik vs. Union of India & Ors.</i>, O.A. No. 21 of 2014 and dated 10th December, 2015 in the case of <i>Vikrant Kumar Tongad vs. Union of India & Ors.</i>, O.A. No. 118 of 2013 and this order shall be kept in separate account and will be utilized for implementing projects in terms of these directions and for prevention and control of air pollution in NCT of Delhi. 7. Every laxity, dereliction of duty and non-compliance of these directions by the officers/officials shall lead to initiation of proceedings as well as action for violating the orders of the Tribunal before the Tribunal and in accordance with law. 8. Copy of this order and all the above referred orders should be placed before any agency and/or Committee constituted by the Government for prevention and control of pollution of ambient air quality in NCR/NCT of Delhi. It will be appropriate

		that the authorities/agency/committees would have advantage of having the orders of the Tribunal before them as a base document so as to facilitate execution and enforcement thereof. 9. The Authority or any other Committee would be free to take such steps or measures as they may deem necessary for cleaning ambient air quality of NCR/NCT of Delhi, in addition to the directions contained in this order and other orders afore-stated. However, they should not act and pass directions which are in derogation to the orders of the Courts and this Tribunal. 10. The Secretary, Environment of every State and the Member Secretary of that State Pollution Control Board shall file in every three months a comprehensive report before the Tribunal, without default. In this report ambient air quality standards in relation to all pollutants upon analysis shall be reported and also the measures/steps taken by that State in relation to prevention and control of air pollution, in accordance with directions contained in this judgement. In the event the report is not filed, the concerned officers shall be liable to be proceeded against in accordance with law for violating the orders of the Tribunal. We further, direct that copy of this order be circulated to the Chief Secretaries, Central Pollution Control Board, State Pollution Control Boards, MoEF&CC and all other Committees constituted, without any delay.

		The application is thus disposed of without any order as to cost. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. Nagin Nanda) 

Item No. 03

Court No. 1

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

Original Application No. 568/2016

Ajay Khera

Applicant(s)

Versus

Container Corporation of India Limited & Ors.

Respondent(s)

Date of hearing: 08.03.2019

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): Mr. Sanjay Upadhyay, Mr. Salik Shafique, Upama Bhattacharjee, Mr. Saumitra Jaiswal, Advocates

For Respondent (s): Ms. Abhisar Bairagi, Ms. Swati Jain, Advocates for Respondent No. 1
Mr. Ajay Jain and Pranay Jain, Advocates for Respondent No. 4
Mr. Om Prakash, Advocate for Northern Railway

ORDER

1. The issue for consideration is closing and shifting of operations of Depot of Respondent No. 1, Container Corporation of India Limited (CONCOR) from Delhi on account of polluting activities.
2. As noted in the order dated 26.10.2018, the container Depot handles about 3 lac containers every year, leading to huge road congestion and air and noise pollution especially when fuel used is diesel, apart from creating parking problems. The Tribunal noted that 10,000 trucks come to Depot every night. Many of them are 20 feet long. This

is affecting the health of the inhabitants of the nearby congested areas. The Tribunal noted the orders of the Hon'ble Supreme Court directing diversion of commercial traffic having destination other than Delhi to alternative routes, to abate air pollution in Delhi.¹

3. The Tribunal noted that the Depot is contributing to the air pollution. Steps are required to reduce the vehicles visiting the Depot or to shift the vehicles to cleaner fuels like CNG, Electric and Hybrid, etc. The Tribunal also noted orders of the Hon'ble Supreme Court in *M.C. Mehta V. Union of India*² on the subject of need to regulate and control the traffic and also to shift polluting activities outside Delhi.
4. The Tribunal held that instead of directing shifting, the Depot may gradually phase out diesel vehicles. It may have a plan so that only Delhi bound goods are brought to the Depot. Vehicles are not parked outside the Depot, apart from taking other steps. The Tribunal also noted that large number of deaths are taking place on account of air pollution in Delhi. As per report of the WHO, Delhi is one of the 10 most polluted cities in the world. This called for a study about capacity of the city in respect of extent of population and number of vehicles to be permitted. Urban carrying capacity assessment was an essential part of urban planning for giving effect to the concept of sustainable development. It was observed:-

“Severely straining and degrading the available natural resources of a particular area without regard to capacity assessment is causing irreversible damage to the ecology in terms of pollution of air, water and earth. What would happen to the traffic flow if all roads become parking? What happens to the road

¹ (2016) 2 SCC 33; MC Mehta Vs. UOI

² (2004) 6 SCC 588

travelers, if there is no adequate oxygen in the air on account of excessive vehicles and congestion? How would unlimited housing be provided to people if the land resources are exhausted at particular place? How will water and waste disposal needs be met, if there is unplanned population density in a particular city? These questions require serious consideration. "Urban disease" frequently besetting the cities such as traffic congestion, housing shortage, lack of amenity, pose actual challenges and impediments to sustainable development. While emergency measures such as the odd-even scheme, limiting the flow of tourist vehicles and restraining the timing of fire crackers may help momentarily such as is contemplated under the 'Graded Response Action Plan', long term assessment of physical and environmental carrying capacity and devising measures to restrict overuse on reaching optimum capacity is inevitable to ensure sustainable development. Without such assessment and action, the very survival of people is threatened what to talk of working towards Sustainable Development Goals, 2030 to tackle climate change may remain only a dream. Sustainable development is essential policy and strategy for continued economic and social development without detriment to the environment and natural resources on the quality of which continued activity and further development depend. Natural resources have got to be tapped for the purposes of social development but one cannot forget at the same time that tapping of resources have to be done with realistic approach to capacity of a city or area so that environment may not be affected in any serious way; so that there may not be depletion of water resources. Long-term planning must be undertaken consistent with capacity assessment. It has always to be remembered that the air and water are not without limitation."

5. The Tribunal accordingly directed carrying capacity assessment of Delhi as well as 102 cities identified as "non-attainment" cities in terms of air quality. The respondent was also required to furnish an action taken report on phasing out of diesel vehicles and cargo trucks and

shifting to Electric, Hybrid and CNG and arranging dedicated pulling inside the complex.

6. The Depot has not furnished the requisite action plan. Only contention put forward is that it is not the responsibility of the Depot to control the diesel vehicles and the cargo trucks visiting the Depot.
7. We are unable to accept the submission. It is the business of the Depot in connection with which the diesel vehicles are visiting. The Depot has to adopt a policy of ensuring that in a phased manner, diesel vehicles stop visiting the Depot and they shift to Electric, Hybrid and CNG vehicles. Other alternative is to limit the visit of diesel vehicles only to its satellite terminals at Dadri, Rewari, Ballabhgarh and Khatuawas or any other such terminals so that the vehicles entering Delhi are not the diesel vehicles. This is expected to be achieved in a phased manner, if not straightaway, within an upper limit of six months. Such an action plan may be filed by the Depot within one month. It is made clear that after six months, the Depot must ensure that no diesel vehicle visits the Depot which may be the condition to permit the Depot to continue to operate from the present location.
8. As regards the direction to prepare carrying capacity assessment report, we find from the interim report submitted by the CPCB that the Ministry of Housing and Urban Affairs is in the process of developing a methodology for the study. The study is to be carried out through Urban Mass Transit Company (UMTC) as a pilot study. Since the order of the Tribunal is more than four months old, the study had to be done in a time bound manner. The same cannot be delayed beyond a point in

view of urgency of the situation. Tackling air pollution cannot remain pending. Let Central Pollution Control Board furnish such study report, as far as possible, within one month from today.

9. Only other issue is on site and off site emergency plan for the Depot. According to stand of the Depot, mock drills are to be carried out once in three months which is not satisfactory. Such mock drills must be carried out at least twice a month. Compliance affidavit may be filed within one month on this aspect.

List for further consideration on 14.05.2019

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

March 08, 2019
Original Application No. 568/2016
RM



Transportation of such containers results in traffic jams. Heavy road congestion leads to air and noise pollution, especially when fuel used is diesel.

