

VOLUME - III			
4. WASTE BURNING/BURNING IN LANDFILL SITES/LEAF LITTER/WASTE TO ENERGY			
A. STUBBLE BURNING			
S. No.	Judgment/ Order Date	Case Details	Page No.
95.	11.02.2014	Vikrant Kumar Tongad v. Environment Pollution (Prevention Control) OA No. 118/2013 (NGT PB)	4431-4432
96.	04.12.2014	Vardhaman Kaushik v. Union of India OA No. 21/2024 (NGT PB)	4433-4454
97.	04.11.2015	Vardhaman Kaushik v. Union of India OA No. 21/2024 (NGT PB)	4455-4463
98.	10.12.2015	Vikrant Kumar Tongad v. Environment Pollution (Prevention Control) OA No. 118/2013 (NGT PB)	4464-4487
99.	16.12.2015	Akhil Bhartiya Vidyarthi Parishad v. Union of India OA No. 139/2013 (NGT CZ)	4488-4493
100.	01.10.2016	Vikrant Kumar Tongad v. Environment Pollution (Prevention Control) EA No. 12/2016 IN OA No. 118/2013 (NGT PB)	4494-4495
101.	10.11.2016	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4496-4518
102.	09.11.2017	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4519-4529
103.	10.11.2017	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4530-4535
104.	17.11.2017	Vardhaman Kaushik v. Union of India OA 21/2014 (NGT PB)	4536-4545
105.	18.12.2017	Vardhaman Kaushik v. Union of India OA 21/2014 (NGT PB)	4546-4573
106.	23.07.2018	Smt. Ganga Lalwani v. Union of India OA 451/2018 (NGT PB)	4574-4576
107.	18.09.2018	Smt. Ganga Lalwani v. Union of India OA 451/2018 (NGT PB)	4577-4579
108.	29.10.2018	Smt. Ganga Lalwani v. Union of India OA 451/2018 (NGT PB)	4580-4582
109.	12.11.2018	Smt. Ganga Lalwani v. Union of India OA 451/2018 (NGT PB)	4583-4588
110.	15.11.2018	Smt. Ganga Lalwani v. Union of India OA 451/2018 (NGT PB)	4589-4594
111.	15.11.2018	In the matter of: News item published in “Indian Express” Authored by Mallica Joshi Titled “All fiddle as crop stubble burns, farmers say solutions out of reach” OA No. 835/2018 (NGT PB)	4595-4600
112.	01.10.2019	Smt. Ganga Lalwani v. Union of India OA No. 451/2018 (NGT PB)	4601-4610
113.	15.10.2019	Smt. Ganga Lalwani v. Union of India OA No. 451/2018 (NGT PB)	4611-4618
114.	08.04.2021	In Re: News item published in “The Times of India” Authored by Shri Vishwa Mohan Titled “NCAP with	4619-4680

		multiple timelines to clean air in 102 cities to be released around August 15” OA No. 681/2018 (NGT PB)	
115.	07.02.2025	Suo motu action on the newspaper articles dated 16.11.2024 published in Times of India titled as “MP Faces burning questions on sharp rising fires” OA No. 249/2024 (NGT CZ)	4681-4720
B. FLY ASH			
116.	28.04.2015	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4721-4730
117.	18.12.2017	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4731-4758
118.	20.11.2018	Shantanu Sharma v. Union of India OA No. 117/2014 (NGT PB)	4759-4771
119.	05.11.2019	Ashwani Kumar Dubey v. Union of India OA No. 164/2018 (NGT PB)	4772-4785
120.	20.11.2020	Shivpal Bhagat v. Union of India OA No. 104/2018 (NGT PB)	4786-4801
121.	13.04.2023	Nitin Devraj v. Union of India OA No. 104/2019 (NGT WZ)	4802-4838
C. GARBAGE AND WASTE BURNING			
122.	04.12.2014	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4839-4860
123.	28.04.2015	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4861-4870
124.	22.12.2016	Almitra H. Patel v. Union of India OA No. 199/2014 (NGT PB)	4871-4961
125.	18.12.2017	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT PB)	4962-4989
126.	31.08.2018	Compliance of Municipal Solid Waste Management Rules, 2016 O.A. N. 606/2018 (NGT PB)	4990-5009
127.	16.01.2019	Compliance of Municipal Solid Waste Management Rules, 2016 O.A. N. 606/2018 (NGT PB)	5010-5036
128.	10.01.2020	Compliance of Municipal Solid Waste Management Rules, 2016 O.A. No. 606/2018 (NGT PB)	5037-5081
129.	05.04.2023	K.S. Upadhyay v. Jharkhand Pollution Control Board OA No. 05/2023 (NGT EZ)	5082-5092
AIR QUALITY – MISCELLANEOUS			
A. Firecrackers			
130.	01.08.2019	Hardeep Singh v. SDMC OA No. 519/2016 (NGT PB)	5093-5103
131.	20.11.2019	Hardeep Singh v. SDMC OA No. 519/2016 (NGT PB)	5104-5115
132.	11.08.2020	Hardeep Singh v. SDMC OA No. 519/2016 (NGT PB)	5116-5142
133.	01.12.2020	Tribunal on its Own Motion v. MoEF&CC OA No. 249/2020 - (NGT PB)	5143-5172
134.	08.04.2021	In Re: News item published in “The Times of India” Authored by Shri Vishwa Mohan Titled “NCAP with	5173-5234

		multiple timelines to clean air in 102 cities to be released around August 15” OA No. 681/2018 (NGT PB)	
135.	27.10.2021	Dr. P. G. Najpandey v. Chief Secretary EA No. 11/2023 IN OA No. 76/2021 (NGT CZ)	5235-5255
B. DG SETS			
136.	15.05.2014	Ramakant Mishra v. Bharat Sanchar Nigam Ltd. OA No. 31/2013 (NGT CZ))	5256-5259
137.	11.03.2015	Market Welfare Association v. District Magistrate Appeal No. 12(T _{HC})/2013, (NGT PB)	5260-5261
138.	10.11.2016	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT, PB)	5262-5284
139.	18.12.2017	Vardhaman Kaushik v. Union of India OA No. 21/2014 (NGT, PB)	5285-5312
140.	01.11.2022	Satish Govind v. President and Secretary, Windsor Park Residents Welfare Association OA No. 242/2021 (NGT PB)	5313-5334
141.	31.01.2023	B. Subramanian v. Tamil Nadu Pollution Control Board OA No. 153/2021 (NGT SZ)	5335-5341
142.	19.07.2023	D.K. Puri v. Govt. of NCT of Delhi OA No. 628/2022 (NGT PB)	5342-5357
C. PUBLIC HEALTH			
143.	04.12.2014	Vardhaman Kaushik v. Union of India OA No. 21/2024 (NGT PB)	5358-5379
144.	30.10.2018	In the matter of: News item published in “Indian Express” Authored by Mallica Joshi Titled “All fiddle as crop stubble burns, farmers say solutions out of reach” OA No. 835/2018 (NGT PB)	5380-5381
145.	01.11.2018	Aditya Prasad v. Union of India OA No. 147/2016 (NGT PB)	5382-5384
146.	19.04.2022	Dileep Nivetia v. Union of India O.A. No. 143/2016 (NGT WZ) (M.A. No. 377/2017) With Raja Singh v. Union of India O.A. No. 206/2022 (NGT PB)	5385-5394
D. CRIMINAL LIABILITIES FOR AIR POLLUTION			
147.	06.09.2014	Asim Sarode v. Maharashtra Pollution Control Board OA No. 43/2013 (NGT WZ)	5395-5413
148.	21.02.2025	In re: News item appearing in Times of India dated 10.10.2023 titled “Feeling anxious? Toxic air could be to blame” OA No. 658/2023 (NGT SZ)	5414-5418

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 118 of 2013

Vikrant Kumar Tongad Vs. Environment Pollution Authority & Ors.

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

Present: Applicant: Appearance not given.
Respondent No.2: Ms. Panchajanya Batra Singh, Advocate with
Mr. S. Khan, Advocate.
Respondent No.3: Ms.Savitri Pandey, Advocate
Respondent No.4: Mr. Daleep Dhayani, Advocate and Mr. Pradeep
Misra, Advocate.
Respondent No.5&6: Mr. Narender Hooda, Sr. Advocate, Mr. D.P.
Singh, Advocate and Mr. Vineet Malik.
Advocate.
Respondent No.8: Mr. Gurinderjit.
Respondent No.9: Mr. Ruchir Mishra, Advocate, Mr. Sanjiv
Saxena, Advocate and Mr. R. Mishra, Advocate.
For UPSIDC : Mr. Avijit Bhushan, Advocate.

Date and Remarks	Orders of the Tribunal
Item No. 11 February 11, 2014	The Learned Counsel appearing for the parties agree that they would be able frame general guidelines for preventing and controlling the pollution resulting from burning agricultural remnants in the open fields. The parties will also examine the Report prepared by the National Academy of Agricultural Sciences, New Delhi in December, 2012 as well as the Report by the CPCB on the subject in issue. Thus, we direct the Ministry of Agriculture to hold a meeting of all the States including State of Punjab and Haryana, CPCB and the National Academy of Agricultural Sciences, New Delhi and prepare composite and complete guidelines for preventing and controlling the pollution resulting from burning agricultural remnants in the open fields, modality and time frame for its implementation which should be placed before the Tribunal. List this matter on 21st March, 2014. ,CP (Swatanter Kumar) ,JM (U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(B.S. Sajwan)

.....,EM
(Dr. R.C. Trivedi)



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)



**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 & 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 DR. D.K. AGRAWAL, 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 Mr. Salik Shafique, Advs.
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 Rao and Mr. Charanjeet Sing, Advs. for Transport Deptt. and Delhi Police, GNCT, Delhi Ms. Pinky Anand, ASG, Mr. Balendu Shekhar, Mr. Akshay Abrol, Adv. and Mr. Rajesh Ranjan Adv. 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, Mr. S. Vijayanand Sharma and Mr. Kalyani Goswami, Adv. for State of Manipur & PCB

Ms. Vinakshi Kadar and Ms. Hemantika Wahi,
Advs. For State of Gujarat
Mr. Gopal Singh 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
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. 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. 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. Shrey
Kapoor and Mr. Ankit Shah, Advs. For State of
Rajasthan.
Mr. Sunil Satayarth, Adv. and Mohd.
Abitasham, Adv 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 Mr. Vivek Paul Oriell,
Advs. for NHAI
Mr. Raj Kamal, Mr. T.K. Sandeep 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, 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

Ms. Prerna Singh 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, CPCB

Present: Applicant:

Respondent No.1:

Respondent Nos. 2 to 6: Mr. Vikas Malhotra, with M. P. Sahay, Advs.
 Mr. Ardhendumuali 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.
 Avneesh Arputham and Ms. Anuradha
 Arputham, 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
 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

Original Application No. 303 of 2015

Applicant :

Ms. Bhakti Pasrija Sethi, Ms. Prerna Kumari,
 Ms. Mamta Rani and Ms. Sudha Pal, Advs.

Respondent No. 1 :

Mr. Vishwendra Verma, Adv. 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. 26 to 28 November 04, 2015 ss	The Learned Counsel appearing for Applicant in one of the Miscellaneous Applications has submitted that Yesterday at 10:00 P.M. the website of DPCC displayed air pollution levels of Mandir Marg as follows: The Particulate Matter 2.5 (PM_{2.5}) – 460 µg/m³ as opposed to the prescribed value of 60 µg/m³. Even other parameters of Ambient Air Quality including PM₁₀, Benzene, Carbon Monoxide and Nitrogen Oxide were shown to be very high. According to him, even as of now that is at 12:45 PM today, the parameters shown on the said website is PM_{2.5} - 275, PM₁₀ - 411 as against the prescribed value of 60 & 100 respectively, Benzene - 2.8 as against the prescribed value of 5, Ozone – 123.7 as against the 180. It is submitted by him that most of the parameters are beyond the prescribed limit, while parameters which are within limit are also towards the maximum of the limit prescribed. The cumulative effect of the above based high polluted air in NCR, Delhi is very harmful to the public health. We must notice here that during the last 3 days media is regularly reporting in regard to the health hazards resulting from the polluted Ambient Air Quality of Delhi. Besides that the Global Warming has its own effect and September, 2015 has been the hottest month in the last 146 years as reported. Crop burning is reported to be one of the most serious contributors for the polluted nature of the air quality in Delhi, besides vehicular dust and burning of other materials.

		The Learned Counsel appearing for the State of Rajasthan, Punjab, Haryana, Uttar Pradesh and NCT, Delhi have fairly stated before us that despite the notifications having been issued by the State Governments and even the orders of the Tribunal, crop residue burning is a common practice that has been adopted by the farmers in all these states. It is also undisputed that crop residue burning is a greater contributory of the air pollution in Delhi especially around this time of the year. Smoke is dangerous to human health, besides even causing other social issues. These issues have been matter of consideration before the Tribunal in other related cases. The State Governments have not been able to provide proper incentive to the farmers which would have prevented agricultural residue burning. This is the menace which ought to be resolved more by persuasive actions and by providing alternative mechanism which may even be beneficial to the farmers rather than mere enforcement, which in any case the state Governments and the Pollution Control Board of the respective States are directly responsible for preventing and controlling of pollution of air in every state as well as in NCR, Delhi. NCR, is having very high density of population and with limited dispersion area, pollution generated by crop residue burning causes consequential additional adverse impact on public health. Environment is to be protected and the states are bound by Constitutional, Statutory and Public Law obligation to provide cleaner air for people to breathe. Right to clean environment and inter-generational equity require the current generation to protect environment for the coming generations and not to

		make the environment from bad-to-worse for the infants of today. In the light of the above we issue the following directions: a. All the States which have issued Notification prohibiting agriculture crop residue burning shall ensure that the Notifications are enforced rigorously and proper action is taken against the defaulters. Any person or body that is found offending this direction would be liable to pay Environmental Compensation as follows: • Small land holders having an area less than 2 Acres – Environmental Compensation Rs. 2500/- per incidence. • Land holders having land are more than 2 Acres but Less than 5 Acres – Environmental Compensation Rs. 5000/- per incidence. • Land holders having land area more than 5 Acres – – Environmental Compensation Rs. 15000/- per incidence. b. State will provide Machines, Mechanism and Equipments or its cost to the farmers to ensure that agricultural residue in the field in these states are removed, collected and stored at appropriate identified sites in each district. • Such equipments like happy seeders would be provided to small farmers having land area less than 2 Acres free of Cost. • Farmers possessing area of more than 2

		Acres but Less than 5 Acres, the cost of Rs. 5,000/-. Land owners having land more than 5 Acres, the cost of Rs. 15,000/- These are for each crop growing season once only. c. Wherever Notification has not been published by now, we hereby direct and prohibit agricultural residue burning in any part of the NCT, Delhi, State of Rajasthan, Punjab, Uttar Pradesh and Haryana. d. All the Boards of these states shall monitor the ambient air quality of the major cities, particularly in NCT, Delhi and submit the data to the Tribunal. e. We direct the District Magistrate of all the Districts in these states to constitute a special team to monitor and physically inspect to ensure that there is no agriculture crop residue burning in their respective jurisdiction. f. This shall be done on regular intervals and inspection reports be submitted to the respective boards which in turn would provide comparative statement based on these inspection, air quality samples analysis report to the Tribunal. We hereby direct all the State Governments and the Pollution Control Board to ensure that small land holding farmers are provided with the aid and machines for extracting the agricultural crop residue in their respective

		fields and transport them to the designated sites in the respective district where it is used as a fuel in the plants, or for manufacturing of Straw/Fibre Boards and be also converted into a manure wherever it is possible. The District Magistrates shall further ensure from the Gram Pranchayat that farmers are educated by holding special program of public hearing, circulating pamphlets and by practically demonstrating to the farmers the pollution and consequential harm to the public health even to their children from agricultural residue burning in open, as well as the possible ways for disposing of agricultural crop residue by even providing benefit in terms of money. In some of the policies declared by the state even some incentive and aid can be provided. Let the states implement that aspect with greater sincerity and effectiveness. All the State Governments shall, if they have not already done, create an alert system so as to bring to the notice of the concerned authority that in a particular part of the jurisdiction of the state, agricultural crop residue burning has commenced so as to enable them to take effective and immediate measures by use of satellite imagery or otherwise. We direct all the State Governments to bring this order to the notice of the farmers of each state. The District Magistrate, Secretary Environment and Member Secretary of the respective Pollution Control Boards shall be personally responsible for implementation of these directions. List this matter for further directions on 02nd December, 2015.

	The Learned Counsel appearing for State of Haryana submits that diversification of traffic (commercial heavy vehicle particularly trucks) have effectively started at Panipat and Rewari, Bawal and more than 600 trucks have been diverted from Panipat. Nearly 500 have been diverted at Rewari Bawal. Thus nearly 1100 trucks on an agerage of 24 hours are diverted, thus reducing the load of Heavy Traffic of NCT, Delhi. Let this efforts be continued and appropriate report be submitted before the Tribunal on the next date of hearing. List this matter for further directions on 02nd December, 2015. ,CP (Swatanter Kumar) ,JM (M.S. Nambiar) ,EM (Dr. D.K. Agrawal) ,EM (B.S. Sajwan)

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

.....

APPLICATION NO. 118 OF 2013

IN THE MATTER OF:

Vikrant Kumar Tongad
R/o Village Bhanouta
Post Kheri, Distt. Gautam Budh Nagar
Uttar Pradesh-203207

.....Applicant

Versus

1. Environment Pollution (Prevention & Control) Authority
Through its Chairperson
Parivesh Bhawan, CBD-cum-Office Complex
East Arjun Nagar
Delhi - 110032
2. Union of India
Through The Secretary
Ministry of Environment and Forest
CGO Complex, Lodhi Road,
New Delhi-110003
3. State of Uttar Pradesh
Through Chief Secretary
Government of Uttar Pradesh
Secretariat, Lucknow-226001
Uttar Pradesh
4. Uttar Pradesh Pollution Control Board
Through its Member Secretary
Picup Bhawan
2nd Floor, B-Block
Vibhuti Khand, Gomti Nagar,
Lucknow-226010
5. State of Haryana
Through the Chief Secretary
4thFloor, Haryana Civil Secretariat,
Sector-1, Chandigarh-160001
6. Haryana Pollution Control Board
Through its Member Secretary
C-11, Sector-6, Panchkula-248 011
Haryana

7. State of Punjab
Through its Chief Secretary
Government of Punjab
Civil Secretariat
Chandigarh-160017
8. Punjab Pollution Control Board
Through its Member Secretary
Vataran Bhawan, Nabha Raod
Patiala-147001
Punjab
9. Union of India
Through its Secretary
Ministry of Agriculture
Krishi Bhawan
Dr. Rajendra Prasad Road
New Delhi-110001
10. Central Pollution Control Board
Through the Member Secretary
Parivesh Bhawan, East Arjun Nagar,
New Delhi-110032

.....Respondents

COUNSEL FOR APPLICANT:

Ms. Maneka Kaur, Advocate

COUNSEL FOR RESPONDENTS:

Ms. Panchajanya Batra Singh, Advocate with Mr. R.N. Jindal, Director, MoEF&CC for Respondent No. 2

Mr. Vijay Bahadur, AG, Ms. Savitri Pandey and Ms. Azma Parveen, Advocates for Respondent No. 3

Mr. Pradeep Misra and Mr. Daleep Kr. Dhayani, Advocates for Respondent No. 4

Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advocate for Respondent Nos. 5 & 6

Ms. Gurinderjit, Advocate, Mr. Shiv Mangal Sharma, AAG with Mr. Shrey Kapoor and Mrs. Saurabh Rajpal, Advocates for State of Rajasthan (Respondent No. 8)

JUDGMENT

PRESENT:

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 Mr. Bikram Singh Sajwan (Expert Member)

Hon'ble Mr. Ranjan Chatterjee (Expert Member)

Reserved on: 19th October, 2015

Pronounced on: 10th December, 2015

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

The applicant claims to be a public spirited person who has been working in the field of environmental conservation etc. He is a resident of Gautam Budh Nagar, Uttar Pradesh and has stated that his primary concern in this application is the adverse effects of burning of agricultural residue in various parts of the country which travels to NCT Delhi and pollutes the air and more specifically creates smog. According to the applicant, the provisions of Air (Prevention and Control of Pollution) Act, 1981 (for short 'Air Act') and Environment (Protection) Act, 1986 (for short 'Act of 1986') provide standards for emission and require that the ambient air quality must be of specified values. To ensure prevention of air pollution as well as in the interest of public health, the Act of 1986, specifically provides for and in fact, places an obligation upon Ministry of Environment and Forests (for short 'MoEF') to issue directions in respect of complaints or otherwise against the violators. The directions or measures could be taken with regard to standards for the quality of the environment in its various aspects for omission or discharge of environmental pollutants from various sources, restriction of areas in which any industry, operations or processes or class of industries shall be carried out, the Ministry is empowered to direct closure of the activity, industry or plant in the event if it is causing pollution. The primary concern of the Ministry is to declare a National Policy and implement the same.

Crop agriculture residue burning is a common feature in NCT Delhi and even in the surrounding states like Uttar Pradesh, Punjab, Rajasthan and Haryana. These states, particularly, Uttar Pradesh, Rajasthan, Haryana and Punjab and areas of Delhi have two or more growing seasons-one from May to September and another from November to April. The farmers often set fire to fields to clear the residue of the crop/plants. The standing straw is burnt to clear the fields. This practice is even prevalent in other parts of the country. He has relied upon the National Aeronautics and Space Administration pictures released on 5th November, 2012 which show large amount of smoke emerging from the fields of Punjab, particularly, coming towards Delhi. Though Punjab comprises of only 1.6 per cent of India's land surface, but it has high production because of fertile soils and adoption of agricultural advances from Green Revolution. The smoke from agriculture residue burning can harm the human health, aggravating heart and lung diseases. The applicant submits that he had visited the agriculture fields of Greater Noida on 5th May, 2013 and found that the practice of straw burning is being done in these areas which is polluting the habitation area of Noida and NCT Delhi. He has placed on record some photographs as well.

2. The applicant has also relied on a study titled "Impact of agriculture crop residue burning on atmospheric aerosol loading-a study over Punjab State, India" published in February, 2010 by Copernicus Publications on behalf of European Geosciences Union which states that Biomass burning is one of the significant global

sources of atmospheric aerosols and trace gas emissions, which have a major impact on climate and human health. He also states that in urban areas, carbonaceous aerosols associated with vehicular combustion are major sources of pollution and radioactive effect of carbonaceous aerosols constitutes one of the largest uncertainties in climate modelling. In addition to aerosol particles, biomass burning due to forest fires and crop residue burning are considered a major source of carbon dioxide (CO₂), carbon monoxide (CO), methane (CH₄), volatile organic compounds (VOC), nitrogen oxides and halogen compounds. The greenhouse gases CO₂ and CH₄ directly influence the global warming, while changes in oxidizing capacity to CO variability could perturb the growth rates of greenhouse gases. While relying on a recent study by Gustafsson et al. (2009) he states that biomass burning is one of the main causes for dense “brown clouds” (BC) in South Asia and 50-90% of the South Asian Black Carbon originates from fossil fuel combustion. Smoke particles from biomass burning have direct radioactive impact by scattering and absorbing shortwave radiation and indirect radioactive impact by serving as cloud-condensation nuclei (CCN) and changing the cloud microphysical and optical properties.

The applicant has averred that agricultural crop residues are burnt during the months of October and November each year in the Indo-Gangetic Plains (IGP) which has significant impact on greenhouse gas emissions and aerosol loading (Badarinath et al., 2009). The IGP is a very important agro-ecoregion in South-Asia,

which occupies nearly one-fifth of the total geographic area in four countries (Pakistan, India, Nepal and Bangladesh). The IGP in India covers 20% geographical area and contributes 42% to the total food grains production and holds nearly 40% of the total population (Tripathi et al., 2005). In the IGP region of India, 12 million hectares is accounted for rice-wheat crop rotation and harvesting of these crops with combine harvesters is very popular with the farmers of Punjab, Haryana and western Uttar Pradesh. These combine harvesting techniques in rice-wheat system leaves behind large quantities of straw in the field. The crop residues are subjected to open burning on account of high labour wages and anxiety of the farmers to get the crop produce collected and marketed at the earliest.

3. The applicant has also relied on a study titled “Valuing the Health Effects of Air Pollution from Agricultural Residue Burning” done by “Institute for Social and Economic Change (ISEC)” and “Department of Policy Studies, TERI University”, which measured the value of health effects of air pollution for rural Punjab, where air pollution problem occurs from crop residue burning. It reports that the rice and wheat system (RWS) is one of the widely practiced cropping systems in northern India. About 90-95 percent of the rice area is used under intensive rice wheat system (RWS) in Punjab. Widespread adoption of green revolution technologies and high yielding variety of seeds increased both, crop as well as crop residue. It is also averred by the applicant that in the last few decades, intensive mechanization of agriculture has been occurring

and combine harvesting is one such input, particularly in the RWS. It is notable that in the RWS, a short period of time is available between rice harvesting and wheat plantation and any delay in planting adversely affects the wheat crop. This coupled with combine harvesting compels the farmers to burn the residue to get rid of stubble left out after the harvest. It is estimated that 22289 Gg of rice straw surplus is produced in India each year out of which 13915 Gg is estimated to be burnt in the field. It is stated that the two states namely Punjab and Haryana alone contribute 48 percent of the total and are subject to open field burning. Burning of straw emits emission of trace gases like CO₂, CH₄, CO, N₂O, NO_x, SO₂ and large amount of particulates which cause adverse impacts on human health. It is estimated that India annually emits 144719 Mg of total particulate matter from open field burning of rice straw. It has come to conclusion that total annual welfare loss in terms of health damages due to air pollution caused by burning of rice straw in rural Punjab amounts to 76 million rupees.

4. There are instances and reports which suggest that the smoke from agriculture residue burning can travel several kilometres. In the month of October, November and December 2012 the smog created in Delhi is attributed to the burning of rice straw in agricultural fields. A daily News paper 'Times of India' dated 06.11.2012 reports on the practice of burning of agricultural residue as under:

"It's an environmentally disastrous practice that the state government has shown little urgency in tackling. Among the fallout of this mass-burning is smog that spreads ill-health through the region, making its way as far as Delhi

and beyond. This year, the smog has been particularly severe in Delhi because of reinforcing factors such as cyclone Nilam, lower-than-usual temperatures and calm winds. Numbers associated with the burning are staggering and shocking. More than 20 million tonnes of straw is set afire within a fortnight that farmers get to prepare their fields for the wheat crop, filling the air with toxic soot and smoke. An estimated 12 megatonnes of CO₂, a greenhouse gas, is released in the air. It causes loss of nitrogen content of soil worth Rs. 250 crore. Besides, the soil loses its fertility and farmer-friendly insects and micronutrients.”

5. The applicant has placed on record copies of the various studies that he has referred in the application. According to the applicant, Central Pollution Control Board, the State Pollution Control Boards, the State Governments and even the Ministry have failed to discharge their statutory obligations in stopping and/or controlling the Air Pollution and adverse public health impacts as a result of agriculture crop residue burning. Thus, he apprises that this practice should stop forthwith and further directions be issued to the concerned authorities to develop the mechanism for disposal of agriculture crop residue and authorities should be directed to do regular monitoring in relation to agriculture residue burning. On merits, there is hardly any contention raised by any of the States. In principle, the States also agreed that agriculture residue burning is not a practice which could be continued. Each of the States have admitted that they are not only trying their best to stop such practice but have even made various attempts to take up the matter with the farmers as to the evils of crop residue burning and its adverse environmental impacts upon the air. They have, in fact, stated that they are in the process of initiating the programs for alternative utilization methods of agriculture residue crop by bio-

mass based power plants, using the residue crop as a raw material for other activities. State of Haryana has stated that it had also issued a notification dated 16th September, 2013 prohibiting burning of left over straw in the entire State of Haryana. High Court of Punjab and Haryana at Chandigarh had directed to constitute a High Powered Committee under the Chairmanship of Chief Secretary which held its meeting on 4th March, 2009 and it was decided that Agriculture Department would promote demonstration and custom hiring of suitable agriculture machinery and promote use of straw bailer for bale making as a long term solution of this problem. The State of Punjab had also prepared a Draft Policy for “Management and Utilization of leftover paddy and wheat straw/stubble” and a meeting to deliberate upon the policy was held on 7th August, 2015. However, no final view in that regard had been taken. State of Uttar Pradesh vide its notification dated 3rd November, 2000 had declared the entire State of Uttar Pradesh as an Air Pollution Control Area under Section 19(1) of the Air Act. It was also stated that ban on burning of agricultural waste was under serious consideration of the State.

6. MoEF has stated that open field burning of plant material and crop remnants has been a long standing traditional agricultural practice of farmers in India. Department of Agriculture and Cooperation in the Ministry of Agriculture has taken a policy decision for extending the financial assistance to the farmers for procuring Happy Seeder vide letters dated 21st April, 2010 and 3rd September, 2010. Furthermore, an affidavit on behalf of MoEF,

where it was stated that agriculture falls in entry 14 in List-II in the Seventh Schedule of the Constitution and also that regional complexities and better policy formulation can be done at the local levels. MoEF has issued advisory as envisaged in the policy of the Ministry of Agriculture to various State Governments and Union Territories. Under this, corrective approach rather than a coercive one is to be used and awareness should be raised in regard to that.

7. In view of the stand taken by the parties, particularly, by the respondents in the application, the Tribunal vide its order dated 11th February, 2014 had directed the Ministry of Agriculture to hold the meeting with the States, particularly, State of Punjab, Haryana, Central Pollution Control Board (for short, 'CPCB') and the National Academy of Agricultural Sciences, New Delhi and prepare composite and complete guidelines for preventing and controlling the pollution resulting from burning of agricultural remnants in the open fields. Thus, it was an obligation of the Ministry to place on record the said modalities within the time frame given. Time to comply with this direction was extended from time to time. On 10th September, 2014, the Tribunal noticed that the meeting had not been held and there was no compliance to the orders of the Tribunal. The Tribunal observed that inter-relation between the Ministry and the Cooperation on such national issues was expected to be more effective and result oriented. Thus, the tribunal directed the Additional Secretary, Ministry of Agriculture to call a meeting within one week where representatives from all States were directed to be present and committee was directed to finalize the Draft National

Policy in regard to residue agriculture burning in open. The CPCB was also directed to be impleaded as one of the respondent in the main application. On 25th September, 2014, the Tribunal was informed vide letter dated 2nd September, 2014 that definite progress has taken and minutes had been recorded of that meeting. Thus, further time was granted to prepare the final report. During the process of hearing and the meeting, the State of Haryana had even submitted some more documents which were directed to be treated as base documents and other States were to examine the possibility of its adoption. It was specifically directed that the agriculture residue waste should be utilized for other purposes including power generation. The committee was directed to examine this aspect as well. On 22nd May, 2015 State of Rajasthan had also filed its action plan on record and they were directed to furnish the copy to MoEF. On 10th September, 2015 counsel of MoEF had submitted final recommendation on record.

8. In a report published in 'The Hindustan Times' stating burning of crop residue in nearby states leads to a blanket of smoke over Delhi, it was specifically mentioned that carbon dioxide levels in the air shoot up by 70 per cent. The concentration of carbon monoxide and nitrogen dioxide raises by 7 per cent and 2.1 per cent, respectively, triggering respiratory and heart problems.

Also, it was stated that soil loses 6-7 kg nitrogen per ton, 1-1.7 kg phosphorus, 14-25 kg potassium and 1.2-1.5 kg sulphur due to stubble burning. In total, the loss of nutrients is around 1.5 lakh

tons per annum. It also noticed other adverse impacts of crop residue burning in open environment, particularly, air pollution.

9. All other States, except Uttar Pradesh had agreed to the report and implement the same. However, the State of Uttar Pradesh had some reservations and it had filed its own policy. The State of Uttar Pradesh filed the action plan for crop residue management in the NCR of Uttar Pradesh and different measures have been stated in this action plan. The State of Rajasthan, vide its Notification dated 27th August, 2015 had prohibited agriculture residue burning in the entire State of Rajasthan. State of Rajasthan had also prepared an action plan of its Agriculture Department to ensure that such practice is stopped immediately.

10. The Ld. Advocate General, appearing for the State of Uttar Pradesh submitted that the State of Uttar Pradesh had decided to issue directions with regard to ban on burning of agricultural residue in the fields openly. In view of this statement, nothing material survives as far as the State of Uttar Pradesh is concerned as the State's Action Plan read with the statement of Ld. Advocate General would bring it clearly in conformity with the official guidelines prepared by the Ministry of Agriculture.

11. At this stage, we may also notice that a Writ Petition was filed before the High Court of Punjab and Haryana at Chandigarh by Capt. Sarabjit Singh being Writ Petition No. 10138 of 2006 titled *Capt. Sarabjit Singh v. State of Punjab and Ors.*, where the Punjab and Haryana High Court noticed the serious adverse impacts of

residue crop burning and the need for formulation of a policy to ban the same. The High Court disposed of this matter vide judgment dated 16th April, 2012. The High Court did not pass any specific orders and felt that all the alternatives would bring the activity of burning in control. However, it also noticed that in relation to technical measures like easy availability of rotavator, zero-till drill and happy seeder or financial assistance could discourage the farmers to continue crop residue burning. On 15th October, 2015 a copy of the letter of the MoEF Secretary to Chief Secretaries of all the States dated 15th September, 2015 was placed on record. It will be useful to reproduce the said letter:

“D.O. No.Q-16017/43/2008-CPA September 15, 2015

Dear Chief Secretaries,

You may kindly refer my earlier D.O. letter dated 2nd October, 2014 (Copy enclosed), requesting to issue advisory on open burning of crop residues in multimedia mode at the State as well as local level to farmers to halt the burning of crop residue and biomass in fields.

2. You are aware that Government of India through Ministry of Agriculture, Cooperation and Farmers Welfare has drawn ‘National Policy for Management of Crop Residues (NPMCR)-2014’ which envisages adoption of technical measures including diversified uses of crop residue, capacity building & training along with formulation of suitable law/legislation. The above policy also envisages to use satellite based remote sensing technologies to monitor crop residue management, with active involvement of National Remote Sensing Agency (NRSA) and Central Pollution Control Board (CPCB).

3. A workshop on ‘Agricultural stubble burning-issues and options’ was jointly organized in Chandigarh on 8th January, 2015 by this Ministry, in collaboration with Government of Punjab to curb the practice of stubble burning and to come up with different alternatives. The officials of Government of Punjab, Government of Haryana, Government of NCT of Delhi, Government of Uttar Pradesh and UT Administration of Chandigarh and concerned departments participated in the workshop. In the workshop apart from others, the following recommendations were made:-

- i) There may be satellite based monitoring mechanism through State Remote Sensing Agency (SRSA) by respective State Governments for stubble burning in open field, weeds/top soil biomass burning along roads/highways and canals and sms mechanism to concerned patwaris, BDOs and Police Stations;
- ii) Ministry of Agriculture, Cooperation and Farmers Welfare shall take up add-on programme and National Remote Sensing Centre (ISRO) for monitoring of stubble burning through satellite during October-November and April-May, every year at National level;
- iii) Central Pollution Control Board (CPCB) in association with State Pollution Control Boards of Punjab, Haryana and Uttar Pradesh may establish ambient air monitoring stations in respective States so as to capture and build data base on stubble burning and crop residue burning under National Air Monitoring Programme (NAMP) (i.e. 20 in Punjab, 10 each in Haryana and Western U.P. on priority).

4. Keeping the above in view, I request you to use satellite data and State machinery for monitoring, prevent and control of stubble/the agricultural residues burning in the fields in coordination with CPCB and ISRO. It may kindly be ensured that agricultural residues are put to alternative use for energy generation, producing ethanol, paper and packaging material etc. to the benefit of farmer's community as well as to protect environment. I may draw your attention to the fact that this was identified as one of the priority areas for action during the recent National Conference on Application of Space technology in Administration and Governance on 7th September, 2015 under the Chairmanship of Hon'ble Prime Minister.

I would appreciate if I am apprised of the action taken by you in this regard.

With regards,

Yours sincerely,
(Ashok Lavasa)"

From the above letter, it is clear that MoEF has endorsed the National Policy for Management of Crop Residues, 2014. Various issues have been addressed and finally it was requested to States to use available data and state machinery for monitoring,

preventing and controlling of stubble and residue burning in cooperation with CPCB and ISRO.

12. The National Policy for Management of Crop Residues 2014, dealt with different aspects including adverse effect of crop residue burning, strategy intervention of curbing crop burning, financial resource, mobilization for management of crop residue and monitoring mechanism to give effect to this policy. It is necessary that the States should also evolve systems to ensure providing of financial and mechanical assistance to the farmers to act in conformity with the National Policy for Management of Crop Residues 2014 as well as the State Action Plans.

13. The agriculture residue burning causes serious environmental hazards. It pollutes the air as excessive matters combine with other pollutants, causing serious issues in relation to public health. Ambient Air Quality in the major cities of all these states, particularly, in NCT Delhi has been found to be more damaging to human health. Before this problem attains dimensions of irresolvable issues, it is necessary that immediate steps are taken to prevent and control impacts of this menace. In the present day, it is not acceptable to advance an argument that crop burning is a necessity. There are clear and specific technical alternative resolutions available to utilization instead of agriculture residue burning. Of course, residue, i.e., the agriculture residue, rice and wheat straw can be a raw material for manufacturing of boards, rough paper and particularly power

sector. All the State Governments have given a specific statement before the Tribunal and most of them have already issued Notifications prohibiting and banning agriculture residue burning in open. The States' Action Plans are in consonance with the National Policy for Management of Crop Residues framed by the Ministry of Agriculture in 2014. Furthermore, this policy has been prepared in consultation with the State Governments and most of the States, the respondents in the present application, have already adopted the said Policy. What is now expected of the State Government and its various authorities is to ensure implementation thereof with utmost sincerity. First, effort should be to educate the farmer community and then there should be serious implementation of the National Policy for Management of Crop Residues framed by the Ministry of Agriculture, 2014 and the Action Plans. There should also be proper attempt on behalf of the State to provide technical or financial assistance to the farmers to encourage them to stop crop residue burning. Still, the class of people who persist with default and do not comply with the directions should be dealt with by taking coercive and punitive steps and this has to be done as last resort. Under Section 3 and 5 of the Act of 1986, the Central Government is entitled to take measures and issue directions, which must be complied with to achieve the object and purpose of the said Act. State of Haryana has stated on record that they had even taken prosecution action against 32 persisting defaulting farmers and

the cases are pending before the Courts of competent jurisdiction under the Act of 1986.

It has been widely reported from time to time that the farm fires/residue crop burning by the farmers is one of the major sources responsible for depletion of air quality of NCR Delhi in particular. Media has made serious attempts in this regard. The Times of India reported on different dates that smog envelopes NCR, air quality falls as Punjab farmers' burn paddy. Referring to NASA's data, it was stated that farm fires in Punjab, that began to register in satellite images around 10th October, have increased in intensity since 30th, October. Smog in Delhi from 30th October, night leading to visibility dropping from 2km to 700-800m at airport. Air quality has fallen sharply to very poor. Again it was reported on 3rd November, 2015 that widespread crop burning had began years back but now, has serious effect on the air ambient quality. Cumulative fire data farmers burning in the region their paddy stubble showed definite depletion in air quality. It was, particularly, during the period 1st October to 30th November. It was not so widespread in the earlier years but the problem had gone alarming in the year 2002 and continues to be a major health hazard. Satellite images, however, reveals that the problem had already reached alarming proportions as early as 13 years ago. Reference has also been made to the letter issued by Secretary, Environment laying emphasis to take measures in the respective states to stop crop residue burning. Though it is

stated to be the cheapest method but it proves very expensive in terms of environment and public health.

14. In view of the above discussion and the stand taken before us by the different State Governments and the Ministry, we dispose of this application with the following directions:

- a. The National Policy for Management of Crop Residue, 2014 prepared by the Ministry of Agriculture, Government of India shall in conjunction with the Action Plan prepared by the States of Rajasthan, Uttar Pradesh, Haryana and Punjab shall be implemented in all these States now, without any default and delay.
- b. All these State Governments and NCT Delhi shall immediately take steps to educate and advise the farmers through media, Gram Panchayats and Corporations that crop residue burning is injurious to human health, causes serious air pollution and is now banned or prohibited by law. They shall also be educated that the agriculture residue can be extracted and utilized for various purposes including manufacturing of boards, fodder, rough paper manufacturing and as a raw material for power generation etc.
- c. Every State Government to this application shall evolve the mechanism for collection of crop residue, its transportation and utilization for appropriate purposes.

Such mechanism shall be implemented directly under the control of the State Authorities.

- d. In the event of any conflict or contradiction between the National Policy for Management of Crop Residue, 2014 and the Action Plan prepared by the State Governments, the National Policy for Management of Crop Residue 2014 shall prevail.
- e. In cases of persistent defaulters of crop residue burning, an appropriate coercive and punitive action could be taken by the concerned State Government including launching of prosecution under Section 15 of the Act of 1986.
- f. Where on the one hand State Governments are directed to provide incentives for farmers for not burning agriculture residue in the open and on the other hand they are required to take into consideration passing of such direction, including withdrawal of assistance provided to the farmers if they persist with the defaults.
- g. All the States which have issued Notification prohibiting agriculture crop residue burning shall ensure that the Notifications are enforced rigorously and proper action is taken against the defaulters. Any person or body that is found offending this direction would be liable to pay Environmental Compensation as follows:

- Small land holders having an area less than 2 Acres shall pay Environmental Compensation of Rs. 2500/- per incidence.
 - Land holders having land area more than 2 Acres but Less than 5 Acres shall pay Environmental Compensation of Rs. 5000/- per incidence.
 - Land holders having land area more than 5 Acres shall pay Environmental Compensation of Rs. 15000/- per incidence.
- h. Every State will provide Machines, Mechanism and Equipments or its cost to the farmers to ensure that agricultural residue in the field in these states are removed, collected and stored at appropriate identified sites in each district.
- Such equipments like happy seeders would be provided to small farmers having land area less than 2 Acres free of Cost.
 - For the farmers possessing area of more than 2 Acres but Less than 5 Acres, the cost for such machines is to be Rs. 5000/-.
 - For land owners having land area more than 5 Acres the cost for such machines is to be Rs. 15,000/-.
- These costs are for each crop growing season only once.
- i. We hereby direct and prohibit agricultural residue burning in any part of the NCT of Delhi, State of

Rajasthan, State of Punjab, State of Uttar Pradesh and State of Haryana.

- j. All the Pollution Control Boards of these states shall monitor the ambient air quality of the major cities, particularly in NCT of Delhi and submit the data to the Tribunal.
- k. We direct the District Magistrate of all the Districts in these states to constitute a special team to monitor and physically inspect the sites to ensure that there is no agriculture crop residue burning in their respective jurisdictions.
- l. This shall be done on regular intervals and inspection reports should be submitted to the respective Pollution Control Boards which in turn would provide comparative statement based on these inspections and air quality samples to the Tribunal.
- m. We hereby direct all the State Governments and the Pollution control Boards should ensure that small land holding farmers are provided with the aid and machines for extracting agricultural crop residue in their respective fields and transport them to the designated sites in the respective districts where either it is used as a fuel in the plants or it is used for manufacturing of Straw/Fiber Boards and it can also be converted into a manure wherever it is possible.

- n. The District Magistrates shall further ensure from the Gram Panchayat that farmers are educated by holding special program of public hearing, circulating pamphlets and by practically demonstrating to the farmers the amount of pollution caused and consequential harm to public health, including that of their children from agricultural residue burning in open, as well as the possible ways for disposing agricultural crop residue by even providing benefit in terms of money. In some of the policies declared by the States, even some incentive and aid can be provided. Let the States implement this with greater sincerity and effectiveness.
- o. All the State Governments shall, if they have not already done, create an alert system so as to bring to the notice of the Concerned Authorities that in a particular part of the jurisdiction of the State, agricultural crop residue burning has commenced so as to enable them to take effective and immediate measures by use of satellite imagery or otherwise.
- p. We direct all the State Governments to bring this order to the notice of the farmers of each State. The District Magistrate, Secretary Environment and Member Secretary of the respective Pollution Control Boards shall be personally responsible for implementation of these directions.

- q. The State Governments should in coordination with Indian Space Research Organization (ISRO), National Remote Sensing Agency (NRSA) and State Remote Sensing Agency (SRSA) develop real time monitoring mechanism for monitoring the place, date and time of burning of agricultural residues within their respective States and evolve communication mechanism for giving SMS alerts to all the district level functionaries in respect of the instances of agricultural residue burning within their jurisdiction.
- r. We also direct that a copy of this judgment be circulated to the Chief Secretaries of the States for compliance in accordance with law and accordingly for preparation of Action Plan and compliance thereof in accordance with law.
- s. All the District Administrative Officers including District Magistrate, Superintendent of Police, Officers of the regional office of the Pollution Control Boards and the Environmental Department of the districts including Corporations, Municipalities etc. would be responsible for carrying out these directions in their true spirit and substance, without default.

15. The application is disposed of with no order as to costs.

Justice Swatanter Kumar
Chairperson

Justice M.S. Nambiar
Judicial Member

Dr. D. K. Agrawal
Expert Member

Mr. Bikram Singh Sajwan
Expert Member

Mr. Ranjan Chatterjee
Expert Member

New Delhi
10th December, 2015

NGT

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

Original Application No. 139/2013 (CZ)

Akhil Bhartiya Vidyarthi Parishad & Anr. vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE Dr. DEVENDRA KUMAR AGRAWAL, EXPERT MEMBER

PRESENT : Applicant : None.
State /NVDA/EPCO : Shri Sachin K. Verma, Adv.
MC Hoshangabad/MPTDC
MPPCB: Ms. Parul Bhadoria, Adv.for
Shri Purushaindra Karav, Adv.
Shri H.S. Malviya
Shri A.A. Mishra
Shri P.S. Bundela
Shri Om Shankar Shrivastav, Adv.
Shri Yadavendra Yadav, Adv.
Shri Vivek Choudhary, Adv. with
Shri Neel Choudhary, Adv. for
Shri Vijay Choudhary, Adv.
Shri Anshuman Singh
Shri Prabha Kant Katare, ENC
Hymavathi Varman,
State Program Officer
Dr. Vikas Saxena, Asstt. Director
Shri Dinesh Singh
Shri Dharmendra Dubey
Shri D.N. Dhote
Shri K.P. Aharwal, Joint Dir.
Shri Rajnish Vais
Shri S.S.Rajpoot, CCF
Shri Y.Satyam, APCCF (Dev.)
Shri S.K. Dubey, Advocate
Shri G.C.Damor, Joint Comm.
(SBM) Bhopal

NWB :
CPCB :
MoEF :

Municipal Corporation Jabalpur :
UD&E:
Swachh Bharat Mission:
Department of Animal Husb.:
ESSEL MSW Jabalpur Pvt. Ltd. :
Directorate of Horticulture:
Department of Agriculture:
NVDA:
Forest Department:
Respondent No. 39 :

Date and Remarks	Order of the Tribunal
Item No. 11 to 14 16 th December, 2015	In continuation to the earlier consultative meeting held on 29.09.2015, IDCC (Inter Departmental Co-ordination Committee) on Narmada river, Govt. of M.P., organised meeting on 13.11.2015 to submit the action taken report. Accordingly in the consultative hearing today, a detailed presentation by Urban Development & Environment Department, Farmer Welfare and Agriculture Department, Panchayat and Rural Development Department, Industries Department and MPPCB was made. <u>Panchayat and Rural Development Department</u> Panchayat and Rural Development Department highlighted that by 2018 they have plans to make Narmada basin, open defecation free area

for which they have initiated various steps such as incentives for individual toilets, community cleaning programme & behaviour change and awareness programme. It was informed that in 2015 they have made 30,186 toilets and 38 village Panchayats have been made open defecation free. Apart from mentioning physical and financial targets, they also provided the technical details of the various components.

On the presentation made, information was sought on water supply status to these components in the absence of non availability of tap water supply to the majority of the villagers. The procedure to be adopted for evacuation of the soak/leachate pit was provided and it was felt that proper mechanism needs to be worked for effective evacuation of leachate pits / manure on completion of 5 years term. Another aspect on which attention was drawn pertains to the religious pilgrimage known as Narmada *Parikrama* for which common toilets with proper water supply and connectivity to STP, evacuation procedure etc. needs to be worked out. The Department would make submission on these aspects in the next consultative hearing.

Urban Development and Environment Department

Urban Development and Environment Department presented long term action plan that envisage construction of STPs in various towns which are located on either bank of river Narmada along with sewer network. These projects are likely to be funded by World Bank, KfW& Amrut with a total financial outlay of Rs. One Crore, Twenty Nine Lakhs, Eight Thousand Thirty Eight lakhs. By February-March 2016, the World Bank funded projects are likely to be taken up by floating tender enquiries, whereas the KfW funded projects are likely to take off in October, 2016 on completion of feasibility reports. It was confirmed by the officials that at present the project reports for the STPs have been prepared based on 135 ltrs. / Capita/day water consumption for the population as given in Census 2011. In this regard the information on number of natural drains carrying sewer water in each of these towns, is

	required to be documented apart from documenting population and area occupied by un authorised slums, etc. over and above the population residing in the periphery of the Municipal Corporation limits. Yet another aspect pertains to the provision of O & M cost for 5 years in the externally aided projects. The procedure that needs to be adopted for its continuous O&M in longer duration needs to be envisaged or planned for each and even ‘Polluter Pay Principle’ can be invoked. In all the towns it is proposed to have extensive sewer network on which reservations have been expressed, as people are not willing to have STP connection owing to higher connection charges, majority of the population is happy with their own arrangement of septic tanks /soak pits which discharge liquid waste into the nearby natural drains. Thus turning all the natural drainage network of the township into practically a sewer network. In view of the said position, it would be appropriate to conceive establishing de-centralised STPs on natural drains of smaller capacities such that the sewer discharged into natural drains at each confluence is treated and discharged into the rivulet. Another aspect that needs to be considered seriously is developing evacuation protocol for the septic tank/soak pits into STPs on regular intervals. It is equally important to consider need for improved standards of water quality parameter for discharge of treated effluent from STPs, as the STPs are directly draining into the main river Narmada or its tributary. Thus, parameters such as fecal coliform etc. need to be controlled. The practise of lining / covering of natural drainage need to be discontinued as natural drains are supposed to drain of run off during monsoon season. It was also discussed at length that recycling of STP treated water needs to be explored in greater details by developing tie ups with industrial cluster, wherever available and providing STPs treated water upto desired standards for consumption in industrial processes rather than using fresh potable water. In this direction STPs / need for STPs for washing operations carried out in railway yards and railway

	tracks also need to be documented properly. STP for workshop section of railway yards also needs to be in place. In the context of laying of sewer network in the various townships, where on account of geology, topography and / or dense population and heavy construction, it may not be feasible to lay sewer network. Covering of area occupied by unauthorised slums through sewer network is yet another gray area. On all these counts, the Urban Development and Environment Department agreed to incorporate these concerns in their project reports and submit the revised work plan by the next date of hearing. <u>Forest Department</u> Forest Department made a presentation on '<i>Hariyali Chunari</i>' proposal wherein it is proposed to develop green belt on either bank of the river Narmada and presented details of physical and financial targets for next 2 years. It was desired to have information on implementation of Catchment Area Treatment (CAT) plan, which have been duly approved as a part of EC condition to various Hydro Power and Irrigation Projects sanctioned on river Narmada and in view of the same huge sum of money for implementation of CAT plan is available with the NVDA. Under the CAT plan, treatment measures pertaining soil and conservation measures, afforestation etc. in the entire catchment area have been provided for. It was informed that NVDA has officials from Forest Department on deputation and it is ensured that the activities taken by the Forest Department do not overlap with the activities that are being under taken under the CAT plan being implemented by the NVDA. The Forest Department and the NVDA shall put a comprehensive physical and financial progress report on implantation of CAT plan as well in the next consultative meeting. <u>Animal Husbandry Department</u> Animal Husbandry Department made a presentation on the

	progress made in respect of issuance of guidelines for establishment of dairies wherein specific provision has been made for construction of ETP for disposal of waste coming out from the dairies and it is stated that the ETPs need to be compliant to the standards provided under the Environment (Protection) Act. It was brought to the notice that under the provisions of Water Act, each of the dairy operating on commercial basis is required to obtain consent of the MPPCB and MPPCB is duly empowered to issue directions for appropriate corrective measures for disposal of waste water emanating from the dairies. It would be, therefore, appropriate for MPPCB to issue directions to all the dairies. <u>Farmer Welfare and Agriculture Department</u> Farmer Welfare and Agriculture Department made a presentation on various measures that have been proposed for promoting organic farming in the catchment area. In this case also, it was noticed that these measures are over and above the measures that are proposed under the CAT plan of various Hydro Power and Irrigation Projects in the Narmada catchment for which the implementing agency i.e. NVDA has officials on deputation from Agriculture Department. By the next date of hearing, the NVDA and Agriculture Department shall put complete details of various measures implemented by them under the CAT plan as well. With regards to burning of crop residue in the agricultural field, it was informed that Agriculture Department has carried out awareness camps and published suitable literature for distribution. They are also imparting training for conversion of crop residue into straw. Crop residue burning has been banned in the State of UP, Haryana, Punjab, Delhi and Rajasthan and has been made punishable offence in view of the judgement passed in the Principal Bench at New Delhi in the case of <i>Vikrant Tongad Vs. Union of India</i> in (O.A. No. 59/2012). The representative of Agriculture Department and Chairman of IDCC agreed to look into the possibilities of issuance of similar directions by the Govt. of MP on burning of crop residue in agriculture fields and making it punishable offence and

	providing incentives to the farmers. MPPCB made a presentation on water quality monitoring at 31 locations based on which, it is stated that the water quality is ‘A’ category as per IS-2296. It was also informed that Online Monitoring System on the outlet of ETP in most of the polluting industry is under progress. Similarly plan has been worked out for the various industries to achieve ‘Zero liquid discharge’ by March, 2017. As of now all the distillery units, printing and dying units are achieving ‘Zero liquid discharge’ by discharging treated effluent on land in their possession. In view of the stand taken by the MoEF & CC in other matters before the Principal Bench, this concept of ‘Zero’ liquid discharge needs to be relooked. Let the matter be listed on 3rd February, 2016. JM (DALIP SINGH) EM (Dr. D.K. AGRAWAL)

2016 SCC OnLine NGT 508

National Green Tribunal

Principal Bench, New Delhi

(BEFORE SWATANTER KUMAR, CHAIRPERSON, RAGHUVENDRA S. RATHORE,
JUDICIAL MEMBER AND BIKRAM SINGH SAJWAN, EXPERT MEMBER)

Vikrant Kumar Tongad

Versus

Environment Pollution (Prevention Control)
Authority & Ors.

Execution Application No. 12 of 2016 and Original Application No.
118 of 2013

Decided on October 1, 2016

Present:

Applicant: Ms. Meera Gopal, Adv.

Respondent No. 4: Mr. Pradeep Misra and Mr. Daleep Kr. Dhayani,
Adv.

Respondent No. 5 & 6: Mr. Anil Grover, AAG with Mr. Rahul Khurana,
Adv.

Respondent No. 7 & 8: Mr. Anil Soni, AAG with Mr. Naginder Benipal,
Adv.

Respondent No. 9: Mr. B.V. Niren, Adv., Mr. Rajkumar Adv. and Mr.
Bhupender Kumar, LA., Mr. Abhishek Yadav, Adv., Ms. Savitri Pandey,
Ad.

ORDERS OF THE TRIBUNAL

1. We have heard the Learned Counsel appearing for the parties. Learned Counsel appearing for the applicant prays for time to file rejoinder. Let rejoinder be filed within two weeks from today.

2. In the meanwhile, the State of Punjab, State of Haryana and State of Uttar Pradesh shall file comprehensive details in relation to the total generation of agriculture residue; the place where it is being utilized and what steps are being taken to deal with the remnant agriculture residue. Every State will place on record, by way of an affidavit and documents, how many machines equipments have been purchased for the purpose of handling the agriculture residue from the agriculture field and where the same has been taken and how many farmers have been provided the assistance in terms of the order of the Tribunal, If any farmer has been directed to pay environmental compensation for crop residue burning in terms of the judgment of the Tribunal and compliance to the directions contained in the judgment of

the Tribunal. Such affidavit should be filed within two weeks from today with complete data. Let State Governments issue notice to DD Development, Tehsil and District Abhor which is running the power plant and stated to be operating primarily on fuel generation of agriculture residue. The said concerns shall produce its original records before the Tribunal on the next date of hearing.

3. List the matter on 28th October, 2016.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.

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

**M.A. No. 284 of 2015, M.A. No. 755 of 2016, M.A. No. 756 of 2016,
M.A. No. 766 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924
of 2016, M.A. No. 892 of 2016, M.A. No. 974 of 2016, M.A. No. 979 of 2016, M.A.
No. 983 of 2016, M.A. No. 984 of 2016, M.A. No. 967 of 2016, M.A. No. 986 of
2016 & M.A. No. 1050 of 2016**

In

Original Application No. 21/2014

And

M.A. No. 156 of 2016

In

Original Application No. 21/2014

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)**

And

Original Application No. 95/2014

(M.A. No. 1156/2016)

And

Original Application No. 303/2015

And

Original Application No. 181 /2013

(M.A. No. 824/2015)

And

Original Application No. 609 /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.

**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. RANJAN CHATTERJEE, EXPERT MEMBER**

**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 $431 \mu\text{g}/\text{m}^3$ in case of PM_{10} and $251 \mu\text{g}/\text{m}^3$ in the case of $\text{PM}_{2.5}$. 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

(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 and M.A. No. 1324 of 2017, M.A. No. 1325 of 2017 and M.A. No. 1332 of 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

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
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present: Applicant :

Ms. Upama Bhattacharjee and MR. Saumitra Jaiswal, Advs. for Mr. Sanjay Upadhyay, Adv.
Ms. Divya Kapur and Ms. Shqel Trehan and Mr. Ruhabh Sharma Adv.
Mr. Vijay Sondhi, Ms. Cauvery Birbal and Mr. Sarvajeet Kumar Thakur, Adv. for Toyota
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee
Ms. Priyam Mehta, Adv. in M.A. 1291 of 2017
Mr. Sumeer Sodhi, Mr. Arjun Nanda Adv. in M.A. 1301 OF 2017
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
Mr. Shuvodeep Roy and Mr. Sayooj Mohandas, Adv. for State of Assam
Mr. V. K. Shukla, Adv and Mr. Vijay Laxmi, Adv for State of M.P.
Mr. Ajay Marwah for HPPCB
Mr. D. K. Thakur, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv for UPPCB
Mr. Gaurav Dubey, Adv. in M.A. No. 1324, 1325 & 1332
Mr. Rajesh Bhardwaj, Adv. in M.A. No. 1332/2017
Mr. Sapam B. Meitei and Mr. Naresh Kumar Gaur, Adv.
Mr. Vibhav Misra, Ms. Saumya Misra and Mr. Yashveer Singh, Adv. for DTC
Mr. Shashank Bajpai and Mr. Shakun S. Shakla, Adv.
Mr. Kamaljeet Singh, Adv.
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
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
 Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
 Mr. Soumyajit Pani and Mr. Chittaranjan Singh, Advs.
 Mr. Jayesh Gaurav, Adv. for JSPCB
 Mr. Gaurav Dubey, Adv. in M.A.
 Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA
 Mr. A.K. Prasad and Mr. Shashank Saxena, Advs. for MoPNG
 Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
 Ms. Sakshi Popli, Adv. for NDMC
 Mr. Rakesh Sharma and Mr. V. Mowli, Advs. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas & Mr. Kumar Milind, 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 and Mr. Pawan Kr. Shukla, Advs.
 Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
 Mr. Parminder Chauhan Adv.
 Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeepn Mishra, Advs. for GNCTD
 Mr. Rajiv Bansal, Sr. Adv., Ms. Kanika Singhal and Ms. Vasudha Trivedi Mr. Kush Sharma and Mr. Lalit Mohan, 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, Adv. and Ms. Prity, Adv. for CECB
 Mr. Arun Monga, Adv.
 Mr. Aman Shukla and Mr. S. S. Rebello, Advs.
 Mr. Abhimanyu Garg and Ms. Preety Makkar, Advs.
 Mr. Anchit Sharma, Mr. Satumita Ghosh and Mr. Dipankar Wadhwa, Advs.
 Mr. Om Prakash, Adv.
 Mr. Nishe Rajen Shonker, Adv. for State of Kerala.
 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. 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 and Mr. Ravi Gopal, Advs. for EDMC
 Mr. S.A. Zaidi and Ms. Mansi Chahal, Advs. in M.A.
 Mr. Debarshi Bhuyan Adv.
 Ms. Rani Chhabra, Ms. Priyanka Soni, Advs. in MAs
 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
 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. Nikhil Singhvi, Mr. Arjun Syal and Mr. Mohit Seth, Advs.
 Mr. D. Rajeshwar Rao, Adv.
 Mr. Gaurav Dubey, Adv. in MA 1289, 1324 and 1325
 Mr. Rajul Shrivastav, Adv.

Ms. Alpana Poddar and Mrs. Preeti Goyal, Advs.
Ms. Puja Kalra, Adv.
MS. Shruti Munjal and Mr. Ankur Chhibber, Advs.
MR. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr.
Nawani, Assistand Engineer
Mr. Rajneesh Bhuj, Mr. Raj Kishan Gaur, Mr. Rahul
Sharma and Mr. Tarun Aggarwal, Advs.
Mr. Preet Pal Singh and Ms. Priyam Mehta, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 53-57 November 09, 2017	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 imposed and fundament duty upon the 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 and ecology of 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 breathing of clean air and drinking of 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. The PM₁₀ value is analyzed which shows 986 micro grams per cubic meter against the prescribed value of 100 micro grams per

	cubic meter on 08.11.2017. The PM_{2.5} for the same date is analyzed 425 micro grams per cubic meter against the prescribed value of 60 micro grams per cubic meter. For today PM₁₀ value is declared to be 1136 micro grams per cubic meter against the prescribed value 100 micro grams per cubic meter and PM_{2.5} is 760 micro grams per cubic meter against the prescribed value of 60 micro grams per cubic meter as per Delhi Pollution Control Committee. It is undisputable and infact has been exhibited on 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. The Central Pollution Control Board has reported the pollution levels in Delhi around hazards or severe air pollution category. This has been a continuous state of affairs for the last more than 7 to 10 days. It is surprising that samples collected by the Central Pollution Control Board and Delhi Pollution Control Committee and other State Boards have not even bothered to test all the 8 parameters. Some of them claim that they have tested parameters but, however, none of the display board displays these parameters. The components are of very serious nature like SO₂, NO₂, CO and Ozone included in the ambient parameters. These can have very serious impacts on the human health if they are found to be in excess in the ambient air quality. The Boards shall provide the analysis report to the Tribunal consisting of all the 12 parameters on the next date of hearing. We have no hesitation in observing that all the

	concerned Government and stake holders and its departments have failed to perform their statutory function to provide decent and clean environment to the people living in NCR. Holding meeting and writing letters and shifting the blame to each other for non-performance and non- cooperation can hardly be an excuse for meeting such environmental emergency. No party, statutory bodies or even the citizens can be a mere spectators to such environmental crisis and there has to be concerted effort in discharging of constitutional and statutory duty by all concerned to ensure that the people do not suffer from health hazards because of non-performance from the concerned quarters. The doctrine of preventive and precautionary principle with greater emphasis on inter generational equity has been violated, ignored at every relevant stages. The Tribunal had passed a detailed judgment in the case of Vardhman Kaushik on 10th November, 2016 and had clearly postulated the steps that were required to be taken on long term and short term basis keeping in view the precautionary principle to ensure that the ill-effects and adverse impact of polluted ambient air quality in the previous year is not repeated in the year 2017. However, this remains un-executed and non-complied. The judgment has been complied with only in default. The Central Pollution Control Board is stated to had issued some directions on 01st November, 2017 where in terms of Section 5 of Environment (Protection) Act, 1986 and in the face of these directions it is specifically noted that the field visits in September and October, 2017 and large incidents

	of open dumping of waste, traffic congestion, open burning, construction activity with adequate dust control measures, open dumping of C&D waste, storage of construction material was observed, various deficiencies or inadequacies were noticed by the Board. The Board itself has failed to perform its function and issue timely and appropriate directions in exercise of its statutory power. We find not even an single plausible explanation as to why the directions contained in the judgment had not been obeyed and carried out by concerned authorities/stake holders. 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 who is able to show the effective compliance of the directions contained in the judgment, coupled with the above situation and apparent non-cooperation and non-coordination amongst the various wings of the States and its instrumentalities. We hereby pass the following directions:-1 1. All the construction (structural) activity of any kind in the entire NCR is hereby prohibited and will not

		be carried on by any person, private or Government Authority in the entire NCR till the next date of hearing. However, the internal finishing and interior work (causing no dust whatsoever) where no construction material is used can be carried on. 2. For the days when the construction activity remains prohibited the labourer shall not be denied of their daily wages and labourer would be paid their daily wages and would not be adversely affected by the order of the Tribunal. 3. All the industrial activity in NCR of Delhi which releases emission would also not be carried till the next date of hearing. 4. All the Corporations, Delhi Development Authority, Public Health and Environment Department of NCT of Delhi shall constitute teams of its Officers/officials who will visit different areas under their respective jurisdiction and ensure that there is not burning of waste or any material in any part of NCR and to ensure compliance of these directions. This will equally apply to the areas and the Authorities having jurisdiction over the NOIDA, Greater NOIDA, Ghaziabad, Sonipat, Gurgaon, Faridabad, Palwal, Bahadur Garh and Manesar. 5. These teams shall also inspect if there are any construction material particularly cement, sand and bajjari lying in the open un-covered and un-protected and the same shall be seized by the Corporation besides requiring the owner builder to pay environmental compensation in terms of the

		judgment dated 10.11.2016. 6. If there are any brick klin or hot mix plants operating in any part of the NCR the same shall be shut down and will not be permitted to operate till the next date of hearing. 7. The Central Pollution Control Board, Uttar Pradesh Pollution Control Board, Haryana Pollution Control Board, Punjab Pollution Control Board, Rajasthan Pollution Control Board and Delhi Pollution Control Committee shall maintain due records of ambient air quality in the areas falling under their jurisdiction being part of NCR. 8. We direct that there should be sprinkling of water where the PM₁₀ (ambient air quality) is found to be in excess 700 micro grams per cubic meter. The sprinkling of water would be done through helicopters or by the fire brigade in each District of NCT of Delhi. 9. There should be regular cleaning of road (by manually preferably vacuum cleaners) particularly and sprinkling of water so that the particulate matters do not again rise to the air. 10. We direct the NCT of Delhi and all the Authorities to ensure that the petrol vehicles which are more than 15 years of age and diesel vehicles which are 10 year old are not permitted to ply on the roads. The Authorities must seize such vehicles and they should be parked on the identified sites which sites should be identified by the Authorities as a temporary site for the purposes of parking by

		tomorrow that is 10th November, 2017. No trucks, tractor and tractor trollys from outside station or within the NCR would be permitted to transport any construction material particularly sand, cement and bajjari till the next date of hearing. This will in addition to the directions already passed by the NCT of Delhi for Delhi. 11. No construction activity would be carried out and no digging would be done even on the roads/highways or constructions sites. 12. No fuel of waste, wood petcoke or any other would be used for purposes of heating bitumen for metalling roads or otherwise. 13. The States of Uttar Pradesh, Punjab, Haryana, Rajasthan would ensure that there is no crop residue burning in any part of their States and Government should provide due incentives to the farmers for removal, carrying and utilization of the crop residue providing some benefits to the farmers. The directions contained in the judgment in that behalf in the case of Vikarnt Tongad Vs. Union India shall be complied by all these States. We are informed that the Badarpur Thermal Power Plant has been lying closed for carrying out certain improvement in the plant till March, 18, 2018 under the Orders of the Government. 14. GRAP shall be implemented by the all the States that is State of Rajasthan, Punjab, Haryana, Uttar Pradesh and in NCR Region particularly to protect and improved the ambient air quality.

		15. The NCT of Delhi and all the States Governments in NCR, Local Bodies would submit their action plan in furtherance to the judgment of this Tribunal in the cases Vikrant Tongad Vs. Union of India and Vardhman Kaushik Vs. Union of India within two weeks from today. 16. We direct that all the Authorities must comply with the directions of the Tribunal to enhance and encourage the public transportation to reduce car traffic pressure on the roads particularly by implementing the directions in relation to plying of deluxe/ air conditioned destination buses. 17. All the Corporation/ Local Authorities would ensure that there is no dust and waste accumulation on the roads or on the walking paths/lanes/service roads. 18. By Monday i.e. 13th November, 2017, the Boards must submit the analysis reports and we also direct the concerned Police Authorities to fully cooperate with the Local Authorities of the concerned States to ensure the compliance of this order, We must also notice that judgment dated 10.11.2016 of the Tribunal which deals comprehensively with all the matters relating to the air pollution has attained finality as no one has challenged the same. We direct that all directions contained in the judgment must be implemented strictly and expeditiously by all concerned. List these matters on Tuesday that is 14th

	November, 2017 when we will consider whether these directions should be vacated or continued for any longer time. <u>M.A. No. 1324 of 2017, M.A. No. 1325 of 2017 and M.A. No. 1332 of 2017.</u> All these applications are allowed subject to the conditions contained in our detailed order dated 13th October, 2017. Thus the M.A. No. 1324 of 2017, M.A. No. 1325 of 2017 and M.A. No. 1332 of 2017 stand disposed of with no order as to cost. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim) ,EM (Bikram Singh Sajwan)

**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 and M.A. No. 1324 of 2017, M.A. No. 1325 of 2017 and M.A. No. 1332 of 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

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
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present: Applicant :

Mr. Sanjay Upadhyay, Adv. Ms. Upama Bhattacharjee and MR. Saumitra Jaiswal, Adv.
Ms. Divya Kapur and Ms. Shyel Trehan and Mr. Ruhabh Sharma Adv.
Mr. Vijay Sondhi, Ms. Cauvery Birbal and Mr. Sarvajeet Kumar Thakur, Adv. for Toyota
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee
Ms. Priyam Mehta, Adv. in M.A. 1291 of 2017
Mr. Sumeer Sodhi, Adv
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
Mr. Shuvodeep Roy and Mr. Sayooj Mohandas, Adv. for State of Assam
Mr. V. K. Shukla, Adv and Mr. Vijay Laxmi, Adv for State of M.P.
Mr. Ajay Marwah for HPPCB
Mr. D. K. Thakur, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv
Mr. Kamaljeet Singh, Adv.
Mr. Devraj Ashok, Adv.
Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Adv.
Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Adv. for State of West Bengal
Mr. Atul Jha, Adv. for State of Chhattisgarh
Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
Mr. Jayesh Gaurav, Adv. for JSPCB
Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA

Mr. A.K. Prasad and Mr. Shashank Saxena, Advs. for MoPNG
Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
Ms. Sakshi Popli, Adv. for NDMC
Mr. Rakesh Sharma and Mr. V. Mowli, Mr. Naveen Raj., Advs. for State of TN and TNPCB
Mr. Gopal Singh, Mr. Rituraj Biswas & Mr. Kumar Milind, 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 and Mr. Pawan Kr. Shukla, Advs.
Mr. Mukul Singh, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Parminder Chauhan Adv.
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar, Mr. Sandeepn Mishra, Advs. for GNCTD
Mr. Rajiv Bansal, Sr. Adv, Mr. Kush Sharma and Mr. Lalit Mohan, 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, Adv. and Ms. Prity, Adv. for CECB
Mr. Aman Shukla and Mr. S. S. Rebello, Advs.
Mr. Anchit Sharma, Mr. Adit Pratap Singh and Mr. Dipankar Wadhwa, Advs.
Mr. Om Prakash, Adv.
Mr. Nishe Rajen Shonker, Adv. for State of Kerala.
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. 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 EDMC
Mr. S.A. Zaidi and Ms. Mansi Chahal, Advs. in M.A.
Mr. Debarshi Bhuyan 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
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. Nikhil Singhvi, Mr. Arjun Syal and Mr. Mohit Seth, Advs.
Mr. D. Rajeshwar Rao, Adv.
Mr. Gaurav Dubey, Adv. in MA 1289, 1324 and 1325
Mr. Rajul Shrivastav, Adv.
Ms. Alpana Poddar and Mrs. Preeti Goyal, Advs.
Ms. Puja Kalra, Adv.

	Date and Remarks	Orders of the Tribunal
	Upon mentioning November 10, 2017 SS & HB	<u>Matter taken up on mentioning</u> We have heard this matter again today. Certain queries have been raised by the Tribunal in

Upon mentioning November 10, 2017 SS & HB	relation to implementation of odd and even scheme for a week commencing from Monday i.e. 13th November, 2017. We have directed the Learned counsel appearing for the NCT Delhi when the case was taken up for hearing in the morning to answer the following:- 1. What is the data set on the basis of which the odd and even scheme is planned to be introduced only for 5 days specially when the pollution is now diminishing as reflected by the reports from the Central Pollution Control Board/Delhi Pollution Control Committee. 2. On earlier occasion when the odd and even scheme was implemented, the report submitted by the Central Pollution Control Board and Delhi Pollution Control Committee shows that the parameters of Particulate Matter i.e PM₁₀ and PM_{2.5} were not found to be reduced. On the contrary the pollution level were cumulatively found to be higher. 3. If the recommendation under the Graded Response Action Plan (GRAP) followed, which triggers upon the parameters exceeding 500 in the case of PM₁₀ and 300 in the case of PM_{2.5} for the period of 48 hours, then which were the days in the last three months where the pollution level of particulate matter were found to be beyond the said limit which itself is totally undesirable as per the prescribed standards by the Government itself are 100 µg/m³ as far as PM₁₀ is concerned and 60 µg/m³ as far as PM_{2.5} is concerned. 4. Whether the Government has implemented, as a

	Upon mentioning November 10, 2017 SS & HB	matter of course the GRAP whenever the parameters are found to be excessive on all the action plan points including odd and even scheme with the same vigour and rigor on the previous occasion. 5. The 500 buses that are proposed to be introduced, how many vehicles are diesel. What is the comparative ratio of emission from diesel to petrol vehicle that is one heavy diesel vehicle would cause pollution equivalent to how many cars as a category. 6. What is the contribution of pollution by cars in NCT Delhi and what are the other components causing pollution of ambient air quality. 7. What is the justification for permitting two wheelers which are serious contributors to air pollution as their number is more than 50% of the registered vehicle as they are the vehicles which operate on fuel mixed with oil and its emissions are stated to add 46% pollution in the NCT Delhi. 8. Why the State Government has not implemented the directions issued by the Tribunal in relation to the judgment of the Tribunal dated 10th November, 2016. 9. It has been reported by the boards as well as by the media that rampant construction activity is still going on despite prohibitory orders. We direct all the departments of NCR, Public Authorities, Delhi Development Authority, Municipal Corporations shall constitute a team as already directed for NCR and would inspect the large scale of construction

Upon mentioning November 10, 2017 SS & HB	activities going on and if the same is found to be carrying on by the person, minimum environmental compensation of Rs. 1 Lakh shall be payable for each default. 10. The DMRC should take clear Notice of these directions. It has been pointed out before us that some industries which hardly have emissions and are not polluting industries, but they are providing essential services and essential goods like food items or medical facilities, they may be permitted to operate. We find the submission to be reasonable and therefore direct that the industries carrying on essential services and providing essential commodities and/or producing essential eatable products would be permitted to operate, but only if the respective boards or committees find that their emissions are negligible and are non-polluting. It has been brought to our notice that in Karnal and Haryana there is huge crop residue burning incidents which have even been reported widely. We direct the State of Haryana; Dy. Commissioner, Karnal and Deputy Commissioners of all the Districts in the State of Haryana, State of Punjab, State of Uttar Pradesh, State of Rajasthan and the Pollution Control Boards to ensure that there should not be any crop residue burning in any of these States forthwith. If any incident of crop burning is brought to the notice of the Tribunal and where the concerned department has failed to take action in accordance with

	Upon mentioning November 10, 2017 SS & HB	judgment of the Tribunal, the Tribunal would be imposing exemplary cost on the department to be recovered from the salary of the respective erring officers. The Learned counsel appearing for the parties prays for time to seek instructions on other matters. Keeping in view of the urgency and request of the Learned counsel appearing for NCT, Delhi, the matter may be dealt with expeditiously, we direct the matter to be heard tomorrow, though there is holiday in National Green Tribunal. However, the matter would be taken for hearing at 11:00 AM tomorrow i.e. 11th November, 2017. All the Learned counsel appearing in this case and the officers concerned are directed to be present before the Tribunal. The Government, Local Authorities and Police particularly shall ensure compliance to the directions contained in the earlier judgment that no truck or tempo to ply in NCT Delhi including NCR, if the same is found to be overloaded or otherwise permitted to ply in NCT, Delhi and NCR. ,CP (Swatanter Kumar) ,JM (Dr. Jawad Rahim) ,EM (Bikram Singh Sajwan)

**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 Adv.

Mr. Vijay Sondhi, Ms. Cauvery Birbal Adv. for Toyota

Mr. Pinaki Mishra, Sr. Adv, Mr. Sudhir Mishra and Ms. Ritwick Nanda, Adv

Mr. Narendra Pal Singh, Adv. with Mr. Dinesh Jindal, LO for Delhi Pollution Control Committee

Mr. Arjun Syal and Mr. Ishan Bisht, Adv.

Mr. Sumeer Sodhi, Mr. Arjun Nanda Adv. in M.A. 1301 OF 2017

Mr. Neil Hildreth and Mr. Rahul Jain, Adv.

Mr. S. M. Ali Special Sec, (env), Dr. M. P. George,

Mr. Dinesh Kumar Garg, Adv. and Mr. Deepak Mishra, Adv. for State of Uttarakhand

Mr. Raman Yadav, Adv. for GDA

Mr. Amit Agarwal and Mr. Asha Basu Adv. for WBPCB

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
 Mr. Anil Grover, AAG & Mr. Rahul Khurana , Adv. for HSPCB, MCG, MCF & HUDA
 Mr. A.K. Prasad and Mr. Shashank Saxena, Advs. for MoPNG
 Mr. Ravindra Kumar Adv. for NOIDA & Greater NOIDA
 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. Joggy 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)

**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, 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
 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
 Ms. Deep Shikha Bharati, Adv. for MoEF
 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.
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini Yadav Adv. for State of West Bengal
 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
 Mr. D. Rajeshwar Rao, Adv.
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajneesh Bhardwaj and Mr. Raj Kishan Gaur, Adv.
 Mr. Rajneesh Bhardwa Mr. Rahul Sharma and Mr. Gaurav Dubey advs
 Mr. Arjun Syal, Mr. Shreyan Das Adv.
 Mr. Rajkumar, Adv with Mr. Bhupender Ms.Preeti, L.A for CPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 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
 Mr. Rakesh Sharma Mr. V. Mowli, Adv. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas, Adv. for State of Tripura
 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
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Lalit Mohan, Adv. for Delhi Development Authority
 Mr. Arjun Sawhney adv in M. a. No. 1435/2017
 Ms. S. Ghosh, Adv., Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Adv.
 Mr. Apurva Kumar 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, and Ms. Prity, Adv. 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. Gautam singh and Ms.. Shibani Ghosh advs.
 Mr. Nishe Rajen Shonker and Ms. Anu K. Joy, Advs. 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 Adv. and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
 Mr. Dileep Poolakkot, Adv.
 Mrs. Rani Chibber and Ms. Priyanka Sony, Advs.
 Mr. Jogy Scaria, Adv., Ms. Beena Victor, Ms. Mrianda Solaman Advs. for Kerala State Pollution Control Board
 Ms. Sumedha Dang, Adv.
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoinethiam Advs. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam and State of Uttar Pradesh
 Mr. Shivam Bajaj Adv.
 Ms. Aditi Singh Adv. for Narender Pal Singh Adv and Mr. Dinesh Jindel LO
 Dr. Sanjay Kulshreshtha, Applicant in person
 Mr. Rishabh Sharma, Advs.
 Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
 Mr. Gautam Singh and Mr. Soheab Alam, Advs. for State of Bihar
 Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. R.K. Maurya, Mr. Ravi Gopal Advs. for East Delhi Municipal Corporation
 Mr. Shubham Bhalla, Adv.
 Mr. Pragyan Pradip Sharma, Adv Ms. Nitesh , Advs.
 Mr. S.M. Sharma and Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
 Mr. Kamlajeet Singh AAG
 Mr. Nagiender Benipal, Adv
 Ms. Yogmaya Agnihotri, Adv., Ms. Prity, Adv.
 Dr. Abhishek Atrey, Adv.
 Ms. Priyanka Ghorawat, Adv.
 Ms. Shashi Juneja Adv.
 Mr. A.R. Takkar, with Mr. Amarjeet & Ms. Shriya Takkar, Advs. for Ambica Steel Ltd.
 Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & Mr. 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 Mr. Bhupendra Kumar, LA and Mr. Kamal Bandhu, ALO
 Ms. Puja Kalra, Adv.
 Mr. Ankur Chhibber and Mr. Nitish Negi, Advs.
 Mr. Kamaljeet Singh, AAG
 Mr. Udaibir Singh Kochar Adv
 Mr. Gautam Dhamija, Adv.
 Mr. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr. Nawani, Assistand Engineer
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur, 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.
 Mr. Sanchar Anand and Mr. Apoorv Singhal, Advs.
 Mr. Jitendra Kumar Tripathi and Mr. simar Pal, Advs.
 Mr. Shibashish Mishra and Mr. sylona Mohapatra, Advs.
 Ms. Kritika Sachdeva and Ms. Somya Rathore, Advs.
 Mr. Naginder Benipal, Adv. for PPCB
 Mr. Pinaki Misra and Mr. Mayank Das, Advs. for NBCC
 Ms. Shyel T. and Mr. Rishabh Sharma,. Advs.
 Mr. Manoj Kumar Das adv.
 Ms. Sugandama Batra, Adv.
 Mr. Arun K. Sinha, Advs.

Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.
Mr. M. Paikaray and Mr. S. Panda and Mr. A. K. Panda, Advs.
Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
Mr. Arun Monga and Ms. Divya Sharma, Advs.
Mr. Roshmani KH, Mr. Sapam Biswajit , Adv.
Mr. Ajit Sharma and Mr. Adnan Siddiqui, Advs.
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

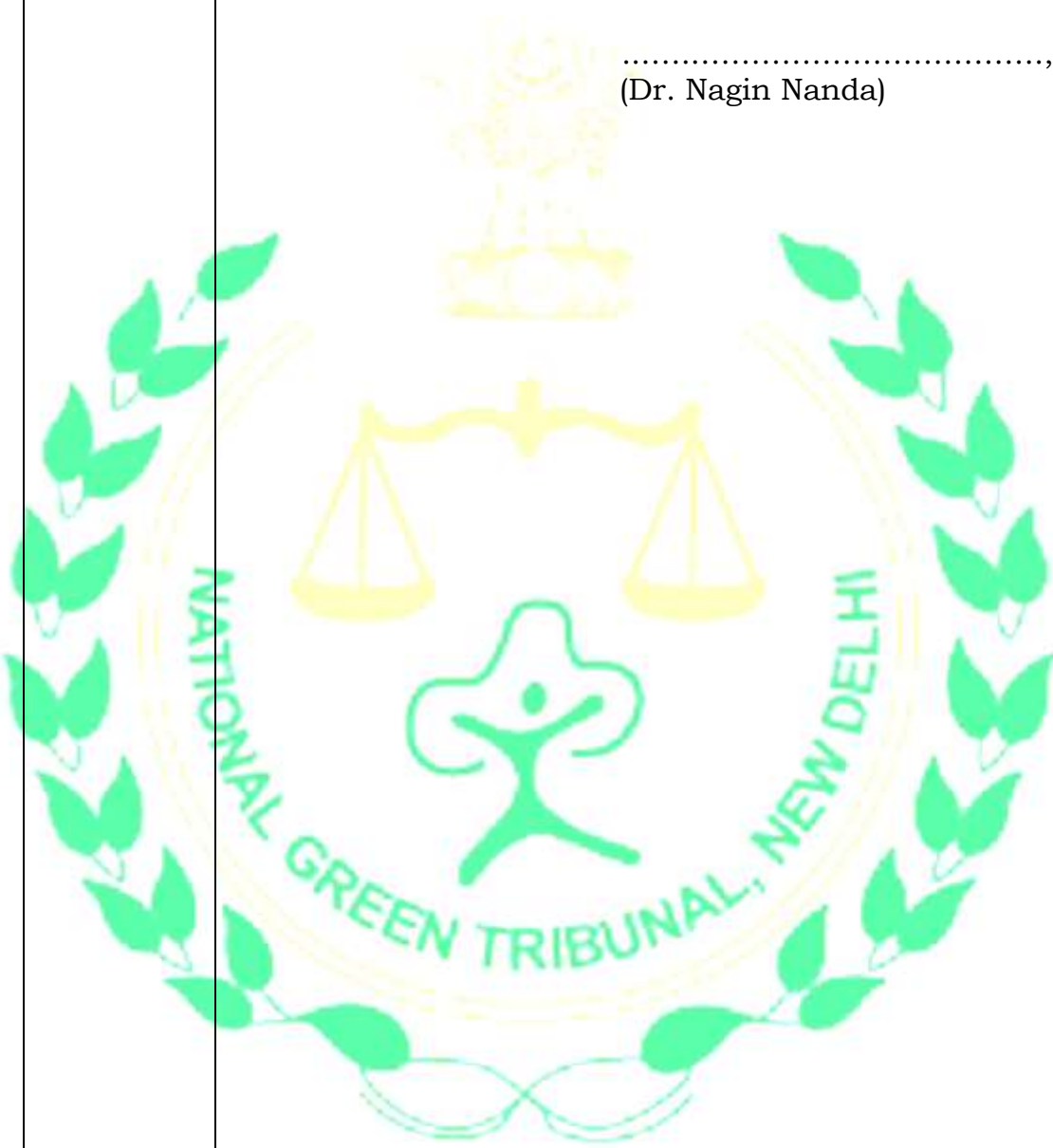
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental 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) 

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 451/2018
(M.A. No. 1083/2018)

Smt. Ganga Lalwani Vs. Union of India & Ors.

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

Present: Applicant: Mr. Vasdev Lalwani, Mr. Vinod Gautam, Mr. Mohit
Gautam and Mr. Rohit Gautam, Advs.
Mr. Anil Grover, AAG with Mr. Rahul Khurana and
Mr. Mishal Vij, Advs. For State of Haryana

	Date and Remarks	Orders of the Tribunal
	Item No. 07 July 23, 2018 ss	1. This application seeks a direction to provide machinery to poor and marginal farmers to avoid crop residue burning. Further prayer is that the Corporate bodies should provide funds as per the Corporate Social Responsibility (CSR) to help the poor farmers. The reliance has been placed in the order dated 10th December, 2015 in the case of <i>Vikram Kumar Tongad Vs. Environment Pollution (Prevention and Control Authority)</i> directing implementation of the National Policy for Management of Crop Residue 2014 prepared by the Ministry of Agriculture, Govt. of India. In that case, a direction was issued that every State will provide machines, mechanism and equipments to the farmers who are unable to remove the agricultural residue and prohibiting the residue burning in the State of Rajasthan, State of Punjab, State of Uttar Pradesh and State of Haryana. 2. Reference is also made to the order of the Tribunal dated 08th November, 2016 in the case of Shaurya Pratap Singh Parihar vs UOI & Ors. Original Application NO. 95 of 2016 to the same effect. The Niti Ayog also organized a

	Item No. 07 July 23, 2018 ss	meeting with the CII on the subject of “Cleaner Air better Life”. As per estimate of the Niti Ayog, the farmers are required to be educated at a cost of Rs. 700 Crores. The report dated 05th June, 2017 mentioned equipments available for the purpose However, the poor farmers are unable to afford the cost of machines. Moreover, in situ degradation of paddy straw may help the soil. The Central Government has set aside a sum of Rs. 685 Crore for helping the farmers. Still, stubble burning continues. It creates pollution. Corporate bodies should help the farmers by way of CSR 3. The above averments show that there are already directions of this Tribunal on the subject on which reliance has been placed. Need is for enforcement of the directions already issued. 4. Accordingly, we direct the Secretary, Ministry of Agriculture to have a feedback from the concerned authorities as to enforcement of directions of the Tribunal within six weeks from today and furnish a Status Report by email at filing.ngt@gmail.com The applications stand disposed of. This order be sent through e-mail to the Secretary, Ministry of Agriculture. The status report may be put up for consideration on 18th September, 2018. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM

		(Dr. Nagin Nanda)	23.07.2018



	Item No. 06 September 18, 2018 A	3. According to the status report, awareness programmes have been undertaken in the States of Bengal, Bihar, Uttar Pradesh and NCT of Delhi. We, however, find that the target with regard to delivery of equipment has not been achieved particularly in the States of Haryana, Punjab and Uttar Pradesh. 4. Accordingly, we direct the States of Punjab, Uttar Pradesh, Rajasthan and Haryana to take steps to make available the requisite equipment in terms of the Central Sector Scheme, 'Promotion of Agricultural Mechanization and Machinery for In-Situ Management of crop residue' within one month i.e., latest by 20.10.2018. Immediate action is required in view of the approaching winter as the air quality may deteriorate unless steps in terms of the order of this Tribunal as well as the schemes in question are taken without any delay. 5. We direct the Ministry of Agriculture to monitor the enforcement of the direction of this Tribunal as well as provisions of the scheme on atleast weekly basis. Training programme of the farmers must also be conducted simultaneously and coercive measures taken against defaulters as already directed by this Tribunal. The States are expected to frame their own action plans for implementation of the direction already issued as well as for enforcement of schemes in force. 6. We direct Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan and Delhi to review the situation by calling a meeting at appropriate level and also to furnish a report to this Tribunal by email at

	Item No. 06 September 18, 2018 A	filing.ngt@gmail.com by October 25, 2018. 7. A copy of this order be sent to the Ministry of Agriculture and Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan and Delhi for compliance. 8. A copy of the report may be furnished to the learned counsel for the applicant by email if address is furnished. 9. The application is disposed of. 10. List for consideration of the report on 29.10.2018. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 18.09.2018

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 666/2018
(Earlier O.A. No. 451/2018)

IN THE MATTER OF:

Smt. Ganga Lalwani Vs. Union of India & Ors.

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

Present: Applicant Mr. Mohit Gautam, Adv.

	Date and Remarks	Orders of the Tribunal
	Item No. 05 October 29, 2018 A	1. On furnishing e-mail ID, the status report received from the Ministry of Agriculture and Farmer Welfare may be furnished to the learned counsel for the applicant. 2. The matter relates to safeguards against the air pollution on account of crop residue burning. This Tribunal had given directions vide judgment dated 10.12.2015 in <i>Vikrant Kumar Tongad Vs. Environment Pollution (Prevention & Control) Authority & Ors. – Original Application No. 118 of 2013</i> and also directed providing of equipment to the farmers for removing the residue of the crops. The Tribunal also, vide an order dated 23.07.2018 in the present matter, directed the Ministry of Agriculture and Farmer Welfare to furnish a status reports about the compliance. The status reports was considered on 18.09.2018. Thereafter the States of Punjab, Uttar Pradesh, Haryana, Rajasthan and Delhi were directed to make available with requisite equipments immediately in view of approaching winters when air quality deteriorates. This Tribunal also directed the Ministry of Agriculture and Farmer Welfare to monitor the enforcement of the directions.

	Item No. 05 October 29, 2018 A	3. We had also directed the Chief Secretaries of States of Punjab, Uttar Pradesh, Haryana, Rajasthan and Delhi to review the situation. 4. The status report of the Ministry of Agriculture and Farmer Welfare does not show that any meaningful monitoring has been done on weekly basis, as directed. 5. The National Policy for Management of Crop Residue (NPMCR) formulated in 2014 provides guidelines for mobilization of financial resources by State Governments for management of Crop Residue, incentivizing purchase of happy seeder/turbo seeder/shredder/baling machines, etc. to facilitate <i>in-situ</i> management of Crop Residue and to monitor implementation of the Policy at regular intervals. Taking note of the same, this Tribunal, vide its order dated 23.07.2018 in the present matter, had observed that directions are already in place and the real need is for enforcement of directions already issued. Yet again, vide its order dated 18.09.2018, in the present proceedings, this Tribunal noted the necessity of conducting training programme for farmers. Anticipating the issue of aggravated air pollution in winters on account of crop burning, a chamber meeting was held in this Tribunal on 05.09.2018 to assess the situation and suggest suitable course of action. Despite commitments from the representatives of State Pollution Control Boards of Punjab, Haryana and Rajasthan to provide requisite training and machinery to the farmers, such commitments do not appear to have been carried out. In 'News Item Published in "The Times of India" Authored by Shri Vishwa

	Item No. 05 October 29, 2018 A	<i>Mohan Titled “NCAP with Multiple Timelines to Clear Air in 102 Cities to be released around August 15”¹ observed the imminent threat to human health as a result of air pollution, specially the report of premature deaths of 15000 persons in Delhi in the year 2016 due to severe smog caused by factors inter-alia crop burning.</i> 6. It is disheartening to note that in such grave situation with deleterious effect of crop burning on human health, the Chief Secretaries of States of Punjab, Uttar Pradesh, Haryana, Rajasthan and Delhi have not responded showing apathy to the orders of this Tribunal which is nothing but disrespect to the rule of law. This may call for action as against those responsible for defiance. 7. Let the said parties furnish their explanation within one week as to why action be not taken for the violation of order of this Tribunal. The applicant may furnish a copy of this order along with relevant papers to the above parties, so that they can forthwith furnish their explanation. In case no explanation is furnished, the Tribunal may consider taking coercive measures. 8. List again on 12.11.2018 at serial number 1. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 29.10.2018

¹ Original Application No. 681/2018 Order dated 08.10.2018

Item Nos. 1 to 3

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 666/2018
(Earlier O.A. No. 451/2018)

WITH

Original Application No. 835/2018
WITH

Original Application No. 860/2018

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

News Item published in "Indian Express" Authored by Mallica Joshi
Titled

"All fiddle as crop stubble burns, farmers say solutions out of reach"

WITH

News Item published in "The Times of India" Authored by Jasjeev.
Gandhiok

Titled

"Day after Dussehra, air quality dives, slight haze over city"

Date of hearing :12.11.2018

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

For Applicant(s): Mr. Vasdev Lalwani, Mohit Gautam, Rohit
Gautam, Advocates

For Respondent (s): Mr. Biraja Mahopatra, Advocate for GNCTD
and Mr. Dinesh Jindal, Law Officer, DPCC
Mr. Amit Tiwari, Advocate for State of UP
Mr. Rahul Khurana and Mishal Vij, Advocates
for State of Haryana & HSPCB, proxy counsel
for Mr. Anil Grover, AAG with Mr. Rajeev Pal,
Asst Ag. Engg. Mr. Manmohan Kalia, Joint
Director, Agric. Engg. State of Punjab
Mr. Ardhendumauli Kumar Prasad, Shashank
Saxena and Deeksha Gera, Advocates for
Ministry of Agriculture, UOI

ORDER

1. The issue for consideration in these proceedings relates to crop burning primarily in the States of Punjab, Haryana and to some extent in the States of Uttar Pradesh and the NCT of Delhi. This leads to deterioration of air quality which in turn leads to deaths and diseases.

2. The issue has been subject matter of consideration before the Hon'ble Supreme Court as well as before this Tribunal on earlier occasions.

3. The Government of India came out with a scheme called "*National Policy for Management of Crop Residue - 2014*". The Scheme provided for assistance to farmers by way of machinery and equipments as a means to avoid crop burning. The *Niti Aayog* also organized a programme for educating the farmers on the subject.

4. In spite of the steps taken, the problem still subsists.

5. On 23.07.2018, in *Original Application No. 451/2018, Smt. Ganga Lalwani Vs. Union of India & Ors.*, the Secretary, Ministry of Agriculture, Government of India was directed to furnish a status report on the subject, after taking necessary feedback from the concerned States.

6. A status report was accordingly furnished to this Tribunal which was considered on 18.09.2018 in *Original Application No. 666/2018, Smt. Ganga Lalwani Vs. Union of India & Ors.* It was noted that target of delivery of machinery/ equipments was not achieved in the States of Punjab, Haryana and Uttar Pradesh. Accordingly, the said States were directed to take necessary steps latest by 20.10.2018 which was required to be monitored by the Ministry of Agriculture, Govt. of India. The States were also directed to frame their own action plans. The Chief Secretaries of Punjab, Haryana, Uttar Pradesh, Rajasthan and NCT of Delhi were directed to review the situation and furnish a report to this Tribunal.

7. At this stage, we may note that on 05.09.2018, the situation was also reviewed in a chamber meeting which was attended by the Members of the Tribunal, representatives of Central Pollution Control Board, Ministries of Agriculture, Road Transport and Highways,

Petroleum and Natural Gas, Heavy Industries, Ministry of Environment, Forest and Climate Change and representatives of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan, NCT of Delhi, apart from the nominees of the Indian Institute of Technology, Delhi, Indian Institute of Technology, Kanpur and NEERI.

8. The matter was again considered on 29.10.2018. We found that the Ministry of Agriculture and Farmer Welfare, Govt. of India had not done the meaningful monitoring as directed by this Tribunal. Commitments of State Pollution Control Boards of Punjab and Haryana to provide training and machinery to the farmers had not been carried out. Reference was also made to the order of the Tribunal dated 08.10.2018 in *Original Application No. 681/2018* wherein it was noted that 15,000 pre-mature deaths took place in Delhi in the year 2016 due to smog, to which crop burning was a contributing factor. The Tribunal also noted the apathy of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan and NCT of Delhi in not responding to the direction of this Tribunal on such a sensitive issue.

9. This is how the matter has been listed today.

10. The Tribunal also considered the matter on 30.10.2018 in light of news items dated 12.10.2018 in 'Indian Express' under the heading "All fiddle as crop stubble burns, farmers say solutions out of reach", news items dated 13.10.2018 in 'Indian Express' under the headings "Why Farmers Say Cheaper to Pay Fine for Crop Burning" and "As crop burning begins, city could see another episode of bad air quality" as well as on 14.10.2018 under the heading "Air quality dips to 'poor' again, to get worse over next 2 days, says SAFAR". Direction was also issued to Chief Secretaries to States of Punjab, Haryana, Delhi and Uttar Pradesh to monitor the situation on day-to-day basis and

furnish weekly reports to this Tribunal. This matter is also being taken up today.

11. Apart from the above, on 01.11.2018, this Tribunal considered news items dated 21.10.2018 in the Times of India under the heading “Day after Dussehra, air quality dives, slight haze over city” and “Eye on stubble burning, city wakes up to waste and leaves burnt in backyard”, news item in ‘The Hindu’ under the heading “City records worst post-Dussehra air quality in 4 years”, News item dated October 21-27, 2018 in ‘The Economic Times, Magazine big story’ under the heading “CROPPING THE FIRE”, news item dated 22.10.2018 in ‘The Hindu’ under the heading “Years to go to stub out crop burning” and news item dated 22.10.2018 in ‘Millennium Post’ under the heading “Delhi’s air quality remains ‘very poor’ and “Stubble burning increases in Punjab and Haryana” and the said matter is also being taken up for consideration today.

12. We have also noticed a news item dated 11.11.2018 in ‘Times of India’ under the heading “Harvesting not yet over but farm fires touch 2017 level”.

13. We have heard Shri Ardhendumauli Kumar Prasad appearing for the Ministry of Agriculture, Government of India, Mr. Manmohan Kalia, Joint Director, Agriculture Engg. State of Punjab, and Mr. Avtar Singh, Scientist for Punjab Pollution Control Board, Mr. Rahul Khurana, Advocate for State of Haryana, instructed by Mr. Rajeev Pal, Assistant Agriculture Engg., Mr. Biraja Mahapatra, Advocate for Government of NCT of Delhi, Mr. Pradeep Mishra, Advocate for the Uttar Pradesh Pollution Control Board and Mr. Amit Tiwari, Advocate for State of Uttar Pradesh instructed by Joint Director, Agriculture.

14. It appears that the problem remains unresolved in the States of Punjab and Haryana. Some part of the problem also persists in the

State of Uttar Pradesh. NCT of Delhi is certainly affected by the crop burning.

15. We make it clear that we do not intend to criticize the working of any of the States or the Central Government. We have perused the affidavits and reports from the States of Uttar Pradesh, Punjab, Haryana, NCT of Delhi and also report of the Ministry of Agriculture, Govt. of India. The fact remains that the problem has not been fully tackled and the adverse impacts on the air quality and consequent impacts on the citizens' health and lives are undisputed. The problem is required to be resolved by taking all such measures as are possible in the interest of public health and environment protection.

16. During the discussion, a suggestion has been considered that those who help the environment by not burning the crop deserve incentive and those who do not do so deserve disincentive. It is clearly permissible and possible as we are told that entries in *Khasra girdawaris* (field inspections) are made which record as to who is indulging in burning and who is not indulging in burning of crop residue. Based on the said records, incentive and disincentives out of the available resources can be worked out so as to dissuade those who indulge in burning and encourage those who do not burn crops on the basis by way of economic incentive and disincentive. We are not at the moment considering the issue of adverse coercive measures like prosecution etc. for offences under the Air (Prevention and Control of Pollution) Act, 1981 or other applicable laws. We, however, do not see any difficulty why such economic incentives and disincentives should not be duly planned or executed. We make it clear that the existing Minimum Support Price (MSP) Scheme must be so interpreted so as to enable the concerned States to wholly or partly deny the benefit of MSP to those who continue to burn the crop residue. If any such disbursements have already been made with

respect to this year's paddy crop, the same can be adjusted in future. Such a scheme may be worked out and notified forthwith preferably by 14.11.2018. The short time is being given on account of urgency of situation with regard to deteriorating air quality prevailing in NCT of Delhi and adjoining areas.

17. We also feel the need for finding out a long lasting solution to the problem and for this purpose, we direct the Secretary, Agriculture, Govt. of India and Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and NCT of Delhi to remain present on the next hearing after doing due diligence and strategic planning for action to prevent crop burning. It is open to the Central Government also to organize a meeting on the subject on the same day or any other convenient day.

18. List for further consideration on 15.11.2018 at 10:30 AM at Serial No. 1.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 12, 2018

R

Item Nos. 01 to 03

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 666/2018
(Earlier O.A. No. 451/2018)

WITH

Original Application No. 835/2018

WITH

Original Application No. 860/2018

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

News item published in "Indian Express" Authored by Mallica Joshi
Titled

"All fiddle as crop stubble burns, farmers say solutions out of reach"

WITH

News item published in "The Times of India " Authored by Jasjeev.
Gandhiok

Titled

"Day after Dussehra, air quality dives, slight haze over city"

Date of hearing: 15.11.2018

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

For Applicant(s):

Mr. Vasdev Lalwani, Mr. Vinod Gautam and
Mr. Mohit Gautam, Advocates

For Respondent(s):

Mr. Naginder Benipal and Mr. Naveen
Chaudhary, Advocates for PPCB
Mr. Biraja Mahapatra, Advocate and Mr.
Dinesh Jindal, LO
Mr. Amit Tiwari and Mr. Pradeep Mishra,
Advocates
Mr. K.S. Pannu, Secy. Agriculture, Manmohan
Kalia, Joint Director
Mr. Ardhendumauli Kr. Prasad, Mr. Shashank
Saxena and Mr. Ritesh Gera, Advocates
Mr. Anil Grover, AAG and Mr. Mishal Vij,
Advocate

ORDER

1. The issue under consideration is that the mitigation of air pollution caused on account of crop burning in the States of Punjab, Haryana and Uttar Pradesh. In the last order, we referred to news items on the subject and directions earlier issued to the

Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi to monitor the situation.

2. Since the problem remains unresolved and affects public health and the environment, we required the presence of the Secretary, Agriculture, Government of India and the Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi vide order dated 12.01.2018. It was also observed that the Central Government is free to organize a meeting on the subject.
3. A meeting on the subject was accordingly organized by the Ministry of Agriculture on 14.11.2018 with the Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi. As per minutes of the said meeting, the Central Government released Rs. 577.11 crores under the Crop Residue Management Scheme, out of which Rs. 328.01 has been spent on procurement of machinery and operating Custom Hiring Centres. As a result of such efforts, fire incidents reduced to the extent of 12.39%. Fire incidents have mainly taken place from 1st November to 12th November. The statistics show that in the State of Punjab fire incidents this year are more than the fire incidents in the last year, during the 1st November to 12th November, though, overall number of incidents are less than last year.
4. The steps considered in the meeting are that the report of the incidents of fire were required to be verified with reference to the satellite data; Information, Education and Communication (IEC) activities by way of scrolls on TV channels, advertisements in the electronic and print media, radio jingles, short films on television, demonstrations, training, school and college student motivation will be carried out in 'massive campaign mode' in the concerned area. *Ex-situ* use of paddy will be explored as source of energy in brick kilns or as source for electricity generation. Custom Hire Centres will be linked through mobile App to enable farmers to

hire equipment at cheaper rate. Incentives and dis-incentives with reference to MSP will not be practical.

5. A Committee has been formed under the Chairmanship of Shri Nagesh Singh, MIRD-MoRD as follows:

1. Shri Nagesh Singh, MIRD, MoRD – Chairman
2. DDG (Engg.) – ICAR – member
3. Principal Secretaries of Agriculture from State Agriculture Departments of Punjab, Haryana and Uttar Pradesh – Members
4. Joint Secretary (M&T), DAC&FW – Convener

6. Terms of the reference of the Committee will be as follows:

- Assessment of the Nos. of Machinery distributed in States
- Assessment and impact of the machinery use by the farmers
- Assessment of the benefits accrued to the farmers.
- Recommendation of area specific varieties of crops where crop burning is higher.
- Suggesting alternative more remunerative and advantageous industrial use of crop residue in respective States.
- Recommending other inputs, for making long term policy.

7. The Tribunal had a chamber meeting, before the hearing, attended by all the members of the Tribunal, Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi, Secretary, Agriculture Department, Govt. of India and also the representative of Ministry of Environment, Forests and Climate Change (MoEF&CC) and the Chairman of Central Pollution Control Board (CPCB), wherein the issue was discussed for about two hours to emphasize the need for monitoring at highest level, in view of seriousness of the issue, impacting to the public health and environment.

8. It was unanimously agreed that multi pronged approach will be adopted for *in-situ* and *ex-situ* management with a view to stop burning of crop residue in the light of experience, apart from the management strategies. IEC activities will be appropriately reviewed and strengthened. The amount collected by way of penalties in pursuance of orders of this Tribunal dated

10.12.2015 in *Original Application No. 118/2013, Vikrant Tongad Vs. Environment Pollution (Prevention and Control) Authority & Ors.*, will be utilized by making an action plan for IEC activities. The collection will be done through the Revenue Department and the Agriculture Department, instead of Pollution Control Boards as the Pollution Control Boards do not have sufficient manpower. In the State of Punjab the incentives for free electricity partly or fully will be reviewed with regard to those who are indulging in crop burning.

9. We have heard learned counsel for the parties.

10. On behalf of the State of Uttar Pradesh, it is stated that as a result of Sustained Awareness Generation Programme, number of fire incidents has come down. The District Magistrates have been sensitized. Crop burning residue will be used in a commercially viable manner such as permitting vermin-composting, requiring brick kiln/furnaces/boilers to use 20% of bio-briquettes on the basis of availability. *In-situ* and *Ex-situ* strategies will be used. *In-situ* strategy will be to convert crop residue into manure and *ex-situ* management will be setting up industrial units to convert crop residue and other biomass into bio-fuel/bio briquettes. As a part of the awareness, the State of Uttar Pradesh has organized a painting competition of the school children and taken other initiatives.

11. We are informed that the Government of India has also initiated awareness programmes through Krishi Vikas Kendras. The State of Punjab has introduced a lesson on stubble burning awareness in the education curriculum. Youth clubs have also been involved. Rallies of school children have also been promoted by the Government of India. In Delhi, farmers have been trained on the subject. In the State of Haryana, similar awareness

programmes have been undertaken and farmers have also been trained which has also been done in the State of Uttar Pradesh.

12. It has also been pointed out that in Haryana, the Haryana Bio Energy Policy, 2018 has been notified on 09.03.2018 which provides for bio-based power projects. Live demonstrations of *in-situ* crop residue management have been given at village level. Crop burning is monitored through satellite. Monitoring is also done at Chief Secretary level regularly through field visits and Video Conferencing. MoU has been signed between the Department of Agriculture and the Indian Oil Corporation for use of crop residue for bio-refinery. State Level Monitoring Committee has been constituted to prevent crop residue burning.

13. With a view to permit exploring of best practices, we clarify that the order with regard to recovery of penalties and the machinery for collection will be open to be applied in such way as found viable in respect of manner of collection, machinery for collection and spending of the amount. We also expect that the situation will be reviewed at the level of Chief Secretaries periodically. The States of Haryana & U.P. may strengthen the system of compiling data appropriately through revenue entries as we are informed that in the States of Haryana and Uttar Pradesh such entries are not being made as are being made in the State of Punjab.

14. We also expect that the funds be disbursed by the Central Government well in time and utilized by the States accordingly, for the next year. IEC programme be strengthened. There should be a continuous process by coordinating with the para legal volunteers of the Legal Service Authorities. Steps taken by different States may be put on the respective websites. The Committee already constituted may look into the source apportionment of different pollutants in the air with a view to

devise appropriate strategies for mitigation. The Committee may also consider whether it is possible to adopt mitigation measures at local level itself where crop burning takes place so that the impact outside is minimized.

15. We are informed that the Secretary, Agriculture holds video conference meetings weekly with the Principal Secretaries of the Uttar Pradesh, Punjab, Haryana and with the District Collectors/District Magistrates of the Districts where the issue is relevant. The Director General of ICAR holds review meetings every month with all the stakeholders. The Principal Secretary to the Prime Minister also reviews the issue from time to time. Five meetings have been held in this regard with the Secretary, Agriculture, Secretary, Environment, Secretary, Road and Transport and with the Secretaries of the concerned States from January to October 2018. Satellite images are sent to the States in respect of the area in question on daily basis.
16. Ministry of Agriculture may place its efforts on its website for information of all concerned.
17. We direct the Ministry of Agriculture, Govt. of India, to continue to monitor the steps in continuation of its meeting held on 14.11.2018 and furnish a status report to this Tribunal on or before 30.04.2019 by e-mail at ngt.filing@gmail.com.
18. The applications stand disposed of.
19. The status report furnished by the Ministry of Agriculture may be put up for consideration on 9th May, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 15, 2018

DV

Item Nos. 01 to 03

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 666/2018
(Earlier O.A. No. 451/2018)

WITH

Original Application No. 835/2018

WITH

Original Application No. 860/2018

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

News item published in "Indian Express" Authored by Mallica Joshi
Titled

"All fiddle as crop stubble burns, farmers say solutions out of reach"

WITH

News item published in "The Times of India " Authored by Jasjeev.
Gandhiok

Titled

"Day after Dussehra, air quality dives, slight haze over city"

Date of hearing: 15.11.2018

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

For Applicant(s): Mr. Vasdev Lalwani, Mr. Vinod Gautam and
 Mr. Mohit Gautam, Advocates

For Respondent(s): Mr. Naginder Benipal and Mr. Naveen
 Chaudhary, Advocates for PPCB
 Mr. Biraja Mahapatra, Advocate and Mr.
 Dinesh Jindal, LO
 Mr. Amit Tiwari and Mr. Pradeep Mishra,
 Advocates
 Mr. K.S. Pannu, Secy. Agriculture, Manmohan
 Kalia, Joint Director
 Mr. Ardhendumauli Kr. Prasad, Mr. Shashank
 Saxena and Mr. Ritesh Gera, Advocates
 Mr. Anil Grover, AAG and Mr. Mishal Vij,
 Advocate

ORDER

1. The issue under consideration is that the mitigation of air pollution caused on account of crop burning in the States of Punjab, Haryana and Uttar Pradesh. In the last order, we referred to news items on the subject and directions earlier issued to the

Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi to monitor the situation.

2. Since the problem remains unresolved and affects public health and the environment, we required the presence of the Secretary, Agriculture, Government of India and the Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi vide order dated 12.01.2018. It was also observed that the Central Government is free to organize a meeting on the subject.
3. A meeting on the subject was accordingly organized by the Ministry of Agriculture on 14.11.2018 with the Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi. As per minutes of the said meeting, the Central Government released Rs. 577.11 crores under the Crop Residue Management Scheme, out of which Rs. 328.01 has been spent on procurement of machinery and operating Custom Hiring Centres. As a result of such efforts, fire incidents reduced to the extent of 12.39%. Fire incidents have mainly taken place from 1st November to 12th November. The statistics show that in the State of Punjab fire incidents this year are more than the fire incidents in the last year, during the 1st November to 12th November, though, overall number of incidents are less than last year.
4. The steps considered in the meeting are that the report of the incidents of fire were required to be verified with reference to the satellite data; Information, Education and Communication (IEC) activities by way of scrolls on TV channels, advertisements in the electronic and print media, radio jingles, short films on television, demonstrations, training, school and college student motivation will be carried out in 'massive campaign mode' in the concerned area. *Ex-situ* use of paddy will be explored as source of energy in brick kilns or as source for electricity generation. Custom Hire Centres will be linked through mobile App to enable farmers to

hire equipment at cheaper rate. Incentives and dis-incentives with reference to MSP will not be practical.

5. A Committee has been formed under the Chairmanship of Shri Nagesh Singh, MIRD-MoRD as follows:

1. Shri Nagesh Singh, MIRD, MoRD – Chairman
2. DDG (Engg.) – ICAR – member
3. Principal Secretaries of Agriculture from State Agriculture Departments of Punjab, Haryana and Uttar Pradesh – Members
4. Joint Secretary (M&T), DAC&FW – Convener

6. Terms of the reference of the Committee will be as follows:

- Assessment of the Nos. of Machinery distributed in States
- Assessment and impact of the machinery use by the farmers
- Assessment of the benefits accrued to the farmers.
- Recommendation of area specific varieties of crops where crop burning is higher.
- Suggesting alternative more remunerative and advantageous industrial use of crop residue in respective States.
- Recommending other inputs, for making long term policy.

7. The Tribunal had a chamber meeting, before the hearing, attended by all the members of the Tribunal, Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and Delhi, Secretary, Agriculture Department, Govt. of India and also the representative of Ministry of Environment, Forests and Climate Change (MoEF&CC) and the Chairman of Central Pollution Control Board (CPCB), wherein the issue was discussed for about two hours to emphasize the need for monitoring at highest level, in view of seriousness of the issue, impacting to the public health and environment.

8. It was unanimously agreed that multi pronged approach will be adopted for *in-situ* and *ex-situ* management with a view to stop burning of crop residue in the light of experience, apart from the management strategies. IEC activities will be appropriately reviewed and strengthened. The amount collected by way of penalties in pursuance of orders of this Tribunal dated

10.12.2015 in *Original Application No. 118/2013, Vikrant Tongad Vs. Environment Pollution (Prevention and Control) Authority & Ors.*, will be utilized by making an action plan for IEC activities. The collection will be done through the Revenue Department and the Agriculture Department, instead of Pollution Control Boards as the Pollution Control Boards do not have sufficient manpower. In the State of Punjab the incentives for free electricity partly or fully will be reviewed with regard to those who are indulging in crop burning.

9. We have heard learned counsel for the parties.

10. On behalf of the State of Uttar Pradesh, it is stated that as a result of Sustained Awareness Generation Programme, number of fire incidents has come down. The District Magistrates have been sensitized. Crop burning residue will be used in a commercially viable manner such as permitting vermin-composting, requiring brick kiln/furnaces/boilers to use 20% of bio-briquettes on the basis of availability. *In-situ* and *Ex-situ* strategies will be used. *In-situ* strategy will be to convert crop residue into manure and *ex-situ* management will be setting up industrial units to convert crop residue and other biomass into bio-fuel/bio briquettes. As a part of the awareness, the State of Uttar Pradesh has organized a painting competition of the school children and taken other initiatives.

11. We are informed that the Government of India has also initiated awareness programmes through Krishi Vikas Kendras. The State of Punjab has introduced a lesson on stubble burning awareness in the education curriculum. Youth clubs have also been involved. Rallies of school children have also been promoted by the Government of India. In Delhi, farmers have been trained on the subject. In the State of Haryana, similar awareness

programmes have been undertaken and farmers have also been trained which has also been done in the State of Uttar Pradesh.

12. It has also been pointed out that in Haryana, the Haryana Bio Energy Policy, 2018 has been notified on 09.03.2018 which provides for bio-based power projects. Live demonstrations of *in-situ* crop residue management have been given at village level. Crop burning is monitored through satellite. Monitoring is also done at Chief Secretary level regularly through field visits and Video Conferencing. MoU has been signed between the Department of Agriculture and the Indian Oil Corporation for use of crop residue for bio-refinery. State Level Monitoring Committee has been constituted to prevent crop residue burning.

13. With a view to permit exploring of best practices, we clarify that the order with regard to recovery of penalties and the machinery for collection will be open to be applied in such way as found viable in respect of manner of collection, machinery for collection and spending of the amount. We also expect that the situation will be reviewed at the level of Chief Secretaries periodically. The States of Haryana & U.P. may strengthen the system of compiling data appropriately through revenue entries as we are informed that in the States of Haryana and Uttar Pradesh such entries are not being made as are being made in the State of Punjab.

14. We also expect that the funds be disbursed by the Central Government well in time and utilized by the States accordingly, for the next year. IEC programme be strengthened. There should be a continuous process by coordinating with the para legal volunteers of the Legal Service Authorities. Steps taken by different States may be put on the respective websites. The Committee already constituted may look into the source apportionment of different pollutants in the air with a view to

devise appropriate strategies for mitigation. The Committee may also consider whether it is possible to adopt mitigation measures at local level itself where crop burning takes place so that the impact outside is minimized.

15. We are informed that the Secretary, Agriculture holds video conference meetings weekly with the Principal Secretaries of the Uttar Pradesh, Punjab, Haryana and with the District Collectors/District Magistrates of the Districts where the issue is relevant. The Director General of ICAR holds review meetings every month with all the stakeholders. The Principal Secretary to the Prime Minister also reviews the issue from time to time. Five meetings have been held in this regard with the Secretary, Agriculture, Secretary, Environment, Secretary, Road and Transport and with the Secretaries of the concerned States from January to October 2018. Satellite images are sent to the States in respect of the area in question on daily basis.
16. Ministry of Agriculture may place its efforts on its website for information of all concerned.
17. We direct the Ministry of Agriculture, Govt. of India, to continue to monitor the steps in continuation of its meeting held on 14.11.2018 and furnish a status report to this Tribunal on or before 30.04.2019 by e-mail at ngt.filing@gmail.com.
18. The applications stand disposed of.
19. The status report furnished by the Ministry of Agriculture may be put up for consideration on 9th May, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 15, 2018

DV

Item No. 01

Court No. 1

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

Original Application No. 666/2018

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 01.10.2019

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. Ardheundumauli Kr. Prasad, Mr. Shashank Saxena, Advocates for Ministry of Agriculture
 Ms. Jyoti Mendiratta, Standing Counsel for GNCT Delhi
 Mr. Amit Tiwari, Standing Counsel for State of UP
 Ms. Anusha Nagarajan, Advocate for State of Punjab with Mr. M. Kalia, Jt. Dir. Agri. for State of Punjab
 Mr. Rahul Khurana, Advocate with J.S. Nain, Agri. Dept, Haryana

ORDER

1. Remedial action to prevent burning of crop residue resulting in air pollution particularly in the NCR Region has been subject matter of consideration before this Tribunal in the last more than six years. According to certain statistics, 25-30% air pollution in NCR is caused by burning of crop residue in and around Delhi in October and November every year. It is reported that burning of crop residue takes places as time gap between the reaping of the paddy crop and

the sowing of the next crop is too less. Since the crop is harvested by machines, residue is left and manual removal thereof is time and labour consuming. Burning of the crop residue is perceived to be helpful in preparing the field for sowing next crop. The fact remains that there is adverse impact of burning of such residue on air quality causing air pollution related diseases which at times may be fatal. As per newspaper reports, to which reference will be made later, 15000 deaths took place in the year 2016 in the NCR region on account of air pollution. Statistics may be similar in other years

2. The Tribunal considered *O.A No. 118/2013, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control Authority) & Ors.*, vide order dated 10.12.2015. It was noted that farmers will be provided equipments for *in-situ* degradation of crop residue with the financial help given by the Central Government. In spite of the steps taken and directions of this Tribunal, the situation has not so far been remedied. . Every year in October – November problem of air pollution is acute in and around Delhi threatening the health particularly of infants and senior citizens.
3. In above background, the matter was reviewed by this Tribunal on 23.07.2018 in *O.A. No. 451/2018*. The Tribunal noted the scheme of the Central Government “Promotion of Agriculture Mechanization for In-Situ Management of Crop Residue” envisaging assistance by way of machinery, finances and information. The Tribunal directed the Ministry of Agriculture to monitor the situation. The Chief Secretaries of Punjab, Haryana, Rajasthan, Uttar Pradesh and Delhi were to review the situation at their level. Such directions were reiterated vide order dated 18.09.2019 in *O.A. No. 666/2018* and thereafter on

29.10.2018 . ‘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”¹ to the effect that 15000 premature deaths took place in Delhi in the year 2016 due to severe smog was referred to

4. Again on 12.11.2018, this Tribunal considered newspaper reports “News Item published in “Indian Express” Authored by Mallica Joshi Titled “All fiddle as crop stubble burns, farmers say solutions out of reach” and News Item published in “The Times of India” Authored by Jasjeev. Gandhiok Titled “Day after Dussehra, air quality dives, slight haze over city”.

5. The Tribunal held a chamber meeting on 05.09.2018 attended by the Members of the Tribunal, representatives of Central Pollution Control Board, Ministries of Agriculture, Road Transport and Highways, Petroleum and Natural Gas, Heavy Industries, Ministry of Environment, Forest and Climate Change and representatives of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan, NCT of Delhi, apart from the nominees of the Indian Institute of Technology, Delhi, Indian Institute of Technology, Kanpur and NEERI. Various newspaper reports were noted as follows:

“10. The Tribunal also considered the matter on 30.10.2018 in light of news items dated 12.10.2018 in ‘Indian Express’ under the heading “All fiddle as crop stubble burns, farmers say solutions out of reach”, news items dated 13.10.2018 in ‘Indian Express’ under the headings “Why Farmers Say Cheaper to Pay Fine for Crop Burning” and “As crop burning begins, city could see another episode of bad air quality” as well as on 14.10.2018 under the heading “Air quality dips to ‘poor’ again, to get worse over next 2 days, says SAFAR”. Direction was also issued to Chief Secretaries to States of Punjab, Haryana, Delhi and Uttar Pradesh to monitor the situation on day-to-day basis and furnish

¹ O.A. No. 681/2018

weekly reports to this Tribunal. This matter is also being taken up today.

11. Apart from the above, on 01.11.2018, this Tribunal considered news items dated 21.10.2018 in the Times of India under the heading "Day after Dussehra, air quality dives, slight haze over city" and "Eye on stubble burning, city wakes up to waste and leaves burnt in backyard", news item in 'The Hindu' under the heading "City records worst post-Dussehra air quality in 4 years", News item dated October 21-27, 2018 in 'The Economic Times, Magazine big story' under the heading "CROPPING THE FIRE", news item dated 22.10.2018 in 'The Hindu' under the heading "Years to go to stub out crop burning" and news item dated 22.10.2018 in 'Millennium Post' under the heading "Delhi's air quality remains 'very poor' and "Stubble burning increases in Punjab and Haryana" and the said matter is also being taken up for consideration today."

6. The Tribunal observed:

"16. During the discussion, a suggestion has been considered that those who help the environment by not burning the crop deserve incentive and those who do not do so deserve disincentive. It is clearly permissible and possible as we are told that entries in Khasra girdawaris (field inspections) are made which record as to who is indulging in burning and who is not indulging in burning of crop residue. Based on the said records, incentive and disincentives out of the available resources can be worked out so as to dissuade those who indulge in burning and encourage those who do not burn crops on the basis by way of economic incentive and disincentive. We are not at the moment considering the issue of adverse coercive measures like prosecution etc. for offences under the Air (Prevention and Control of Pollution) Act, 1981 or other applicable laws. We, however, do not see any difficulty why such economic incentives and disincentives should not be duly planned or executed. We make it clear that the existing Minimum Support Price (MSP) Scheme must be so interpreted so as to enable the concerned States to wholly or partly deny the benefit of MSP to those who continue to burn the crop residue. If any such disbursements have already been made with respect to this year's paddy crop, the same can be adjusted in future. Such a scheme may be worked out and notified forthwith preferably by 14.11.2018. The short time is being given on account of urgency of situation with regard to deteriorating air quality prevailing in NCT of Delhi and adjoining areas.

17. We also feel the need for finding out a long lasting solution to the problem and for this purpose, we direct the Secretary, Agriculture, Govt. of India and Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and NCT of Delhi to remain present on the next hearing after doing due diligence and strategic planning for action to prevent crop burning. It is open to the Central Government also to organize a meeting on the subject on the same day or any other convenient day."

7. The matter was again reviewed on 15.11.2018. The proceedings of the meeting organized by the Ministry of Agriculture on 14.11.2018 with the concerned Chief Secretaries were referred to as follows:

“4. The steps considered in the meeting are that the report of the incidents of fire were required to be verified with reference to the satellite data; Information, Education and Communication (IEC) activities by way of scrolls on TV channels, advertisements in the electronic and print media, radio jingles, short films on television, demonstrations, training, school and college student motivation will be carried out in ‘massive campaign mode’ in the concerned area. Ex-situ use of paddy will be explored as source of energy in brick kilns or as source for electricity generation. Custom Hire Centres will be linked through mobile App to enable farmers to hire equipment at cheaper rate. Incentives and dis-incentives with reference to MSP will not be practical.

5. A Committee has been formed under the Chairmanship of Shri Nagesh Singh, MIRD-MoRD as follows:

- 1. Shri Nagesh Singh, MIRD, MoRD – Chairman*
- 2. DDG (Engg.) – ICAR – member*
- 3. Principal Secretaries of Agriculture from State Agriculture Departments of Punjab, Haryana and Uttar Pradesh – Members*
- 4. Joint Secretary (M&T), DAC&FW – Convener*

6. Terms of the reference of the Committee will be as follows:

- Assessment of the Nos. of Machinery distributed in States*
- Assessment and impact of the machinery use by the farmers*
- Assessment of the benefits accrued to the farmers.*
- Recommendation of area specific varieties of crops where crop burning is higher.*
- Suggesting alternative more remunerative and advantageous industrial use of crop residue in respective States.*
- Recommending other inputs, for making long term policy.*

12. It has also been pointed out that in Haryana, the Haryana Bio Energy Policy, 2018 has been notified on 09.03.2018 which provides for bio-based power projects. Live demonstrations of in-situ crop residue management have been given at village level. Crop burning is monitored through satellite. Monitoring is also done at Chief Secretary level regularly through field visits and Video Conferencing. MoU has been signed between the Department of Agriculture and the Indian Oil Corporation for use of crop residue for bio-refinery. State Level Monitoring Committee has been constituted to prevent crop residue burning.

13. With a view to permit exploring of best practices, we clarify that the order with regard to recovery of penalties and the machinery for collection will be open to be applied in such way as found viable in respect of manner of collection, machinery for collection and spending of the amount. We also expect that the situation will be reviewed at the level of Chief Secretaries periodically. The States or Haryana & U.P. may strengthen the system of compiling data

appropriately through revenue entries as we are informed that in the States of Haryana and Uttar Pradesh such entries are not being made as are being made in the State of Punjab.

14. *We also expect that the funds be disbursed by the Central Government well in time and utilized by the States accordingly, for the next year. IEC programme be strengthened. There should be a continuous process by coordinating with the para legal volunteers of the Legal Service Authorities. Steps taken by different States may be put on the respective websites. The Committee already constituted may look into the source apportionment of different pollutants in the air with a view to devise appropriate strategies for mitigation. The Committee may also consider whether it is possible to adopt mitigation measures at local level itself where crop burning takes place so that the impact outside is minimized.*

15. *We are informed that the Secretary, Agriculture holds video conference meetings weekly with the Principal Secretaries of the Uttar Pradesh, Punjab, Haryana and with the District Collectors/District Magistrates of the Districts where the issue is relevant. The Director General of ICAR holds review meetings every month with all the stakeholders. The Principal Secretary to the Prime Minister also reviews the issue from time to time. Five meetings have been held in this regard with the Secretary, Agriculture, Secretary, Environment, Secretary, Road and Transport and with the Secretaries of the concerned States from January to October 2018. Satellite images are sent to the States in respect of the area in question on daily basis.”*

8. On 05.07.2019, the matter was again taken up in continuation of the earlier proceedings and in the light of report of the Ministry of Agriculture dated 21.06.2019. It was noted as follows:

“3. In pursuance of the above directions, a report has been filed vide email dated 21.06.2019 by the Ministry of Agriculture. The report mentions the Central Sector Scheme on ‘Promotion of Agricultural Mechanization for in-situ management of crop residue in the States of Punjab, Haryana, Uttar Pradesh and NCT of Delhi’ providing for subsidy for purchasing the requisite machinery. Subsidy to an individual is 50% of the cost and 80% to the cooperative societies. There is also a scheme for providing the machinery on hire basis. The report notes that there are adverse effects of crop residue burning not only on air quality but also on soil properties. The crop residue burning is a source for greenhouse gases. More serious problem was known in respect of Basmati paddy which is not harvested manually. The burning was to the extent of 16.9% in Haryana and 49.47% in Punjab. The farmers are preferring long duration varieties considering it to be more profitable while short duration varieties can provide a solution by making larger window of time available, without any monetary loss. Alternatives to paddy cultivation are available which can be adopted by providing for relevant incentives. Maize can be one alternative crop which can be promoted. Preference has to be for in-situ management

though option of ex-situ management is available by using the crop residue for bio-energy or other projects. Recommendations of the Expert Committee include providing CRM machines timely by 30.09.2019, so as to be available for the entire sowing period; IEC campaign being strengthening through various media during August to October; shorter duration paddy varieties being preferred; the ICAR institute and Departments of Agriculture being supported so that they can increase their outreach and hand hold farmers; in the area of crops diversification, horticulture, vegetables and cultivation of maize being encouraged. For this purpose, the use of maize in industrial applications, mainly for ethanol and other products may be encouraged.

4. During the hearing, we have drawn the attention of the learned counsel for the Ministry of Agriculture to the observations in para No. 16 of the order dated 12.11.2018 noting the suggestion to consider incentives and dis-incentives to encourage those who do not indulge in burning of the crop residue by recording an entry in the field reports, by giving some incentives or dis-incentives out of the same kitty of the subsidy. Such strategy may be in respect of individuals or in respect of area in question. Even though the report mentions that certain awards have been given, some financial incentives/disincentives need to be considered.

5. We may also point out that need to explore coordination with the ISRO for developing an App through BHUVAN ISRO's Geoportal to alert the village level officers or the local police where crop burning is noticed. The use of drones may be considered apart from satellite imagery to map the hot-spots in the same manner as is done in respect of forest fires and strategies be drawn accordingly. Finally, the monitoring network is required to be effective and more vigilant. Though Bhuvan, which is a geoportal of the ISRO, is said to have been used at macro-level, its use at micro-level so as to generate SMS alert needs to be explored at the ground level. These suggestions need to be considered by the Ministry of Agriculture in coordination with the concerned States and thereafter, further monitored at the grass root level by the concerned Deputy Commissioners/Collectors.

6. We may also note a suggestion which has transpired during the hearing and has been put forward by Dr. S. Mukherjee, Registrar, Jobner Agriculture University, Jaipur that the crop residue has huge potential for the organic manure and decentralized composting units could be set up either in the concerned fields or common composting units at community level in a village or in a cluster of villages. At least one such pilot project needs to be considered in each State. This aspect may be further explored in the meeting of the Ministry of Agriculture with the concerned States within one month. We are informed that in the State of Rajasthan, this has been successfully tried by Sri Karan Narendra Agriculture University, Durgapura, Jaipur. Further, the gap analysis study may be undertaken in regard to the current situation, the challenges be identified and the necessary steps taken to mitigate the situation."

9. We have for consideration minutes of meeting dated 25.09.2019 on the subject. The meeting was called by the Joint Secretary, Agriculture, Government of India with the representatives of the States of Punjab, Haryana and Uttar Pradesh. Progress of distribution of machinery is recorded as follows:

“

Name of the State	Physical Progress							
	Physical Targets (Nos.)		Application Received (Nos.)		Application Sanctioned (Nos.)		Machines delivered (Nos.)	
	Individual	CHCs	Individual	CHCs	Individual	CHCs	Individual	CHCs
Punjab	7600	6230	8746	5874	7712	5623	1658	2483
Haryana	15343	784	50598	913	9702	795	4506	4007
Uttar Pradesh	4077	1817	1918	1817	1918	1817	-	-
Total	27020	8831	61262	8604	19332	8235	6164	6490

”

10. Proceeding further are:

- “(ix) After discussion and hearing the comments from all the State Governments, it has been advised as under:-
- (a) As the paddy harvesting season is started in some pockets of the State of Punjab & Haryana, the States should ensure delivery and utilization of these machines to their full capacity.
 - (b) Major focus should be on bringing more area under happy seeder which is a major, effective and economical solution to the farmers for paddy residues management
 - (c) As the crucial season has already begun, the States and KVKs should take up the IEC activities more vigorously to educate the farmers on ill effects of paddy residue burning and the advantages of incorporation of paddy residue into the soil.”

11. The above statistics show that physical targets are not supported by any expert study to be effective enough to neutralize the impact of air pollution caused by burning of crop residue. In any case the said targets have not been achieved. As against target of 27020 individual and 883 Custom Hiring Centres, machines delivered are 6164 and 6490. Overall average of success appears to be around 35% only

12. Thus, it does appear that unless further effective measures are adopted, the problem of air pollution by burning of crop residue may not be remedied. We are of the view that this concern needs to be addressed by effective environmental governance which is inalienable duty of the State. No doubt, the funds have been allocated by the Central Government for the purpose but the Central Government ought to provide further guidance in terms of effective strategies to be used for monitoring the situation. At the level of States, the responsibility may be more onerous and still more onerous at the District level. It may be desirable to have a special cell in the office of the Chief Secretary so that the situation is reviewed on daily basis atleast for next one month, even on holidays. Similar cells may be required at the offices of District Magistrates or at such other levels as may be considered necessary by the State Authorities. Such monitoring mechanism may be finalized by 07.10.2019 and placed on the website of the State which may encourage public participation and enhance awareness.
13. We do hope that with sincere efforts at all levels it may not be difficult to contain the problem in the interest of better air quality and public health.
14. We direct the concerned Joint Secretary, Ministry of Agriculture, Government of India and Secretaries, Agriculture of States of Punjab, Haryana and Uttar Pradesh (whatever may be the designation in the concerned States) to appear before this Tribunal alongwith their status reports on 15.10.2019 at 10:30 am for further consideration.

List for further consideration on 15.10.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 1, 2019
Original Application No. 666/2018
DV



Item No. 01

Court No. 1

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

Original Application No. 666/2018
(Earlier O.A.No.451/2018)

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.10.2019

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. Ardhendumauli Kr. Prasad, Advocate for UOI with Mr. Ashwani Kumar, Joint Secretary, Agriculture
Mr. Amit Tiwari, Advocate for State of UP with Mr. Amit Prasad, IAS, PS (Agri.)
Ms. Anusha Nagarajan, Dy. Adv. Gen. for State of Punjab with Mr. K.S. Pannu, IAS Secy. (Agriculture)
Ms. Jyoti Mendiratta, Standing Counsel for GNCT of Delhi
Mr. Anil Grover, AAG, Haryana with Mr. Rahul Khurana, Advocate and Mr. Ajit Bala Joshi, DG-cum-Secretary, Agri. Dept. Haryana

ORDER

1. Remedial action to prevent burning of crop residue resulting in air pollution particularly in the NCR Region has been subject matter of consideration before this Tribunal in the last more than six years.¹ According to certain statistics, 25-30% air pollution in NCR is caused by burning of crop residue in and around Delhi in October and

¹ Earlier proceedings were being conducted in O.A.118/2013.

November every year. Air pollution outside NCR is also a matter of concern. It is reported that burning of crop residue takes places as time gap between the reaping of the paddy crop and the sowing of the next crop is too less. Since the crop is harvested by machines, residue is left and manual removal thereof is time and labour consuming. Burning of the crop residue is perceived to be helpful in preparing the field for sowing next crop. The fact remains that there is adverse impact of burning of such residue on air quality causing air pollution related diseases which at times may be fatal. As per newspaper reports, to which reference will be made later, 15000 deaths took place in the year 2016 in the NCR region on account of air pollution². Statistics may be similar in other years and outside NCR also.

2. Today's hearing is in continuation of hearings which have taken place since 10.12.2015. We may refer to the proceedings of the last hearing on 01.10.2019. A part of the order on the last hearing is as follows:

"8. On 05.07.2019, the matter was again taken up in continuation of the earlier proceedings and in the light of report of the Ministry of Agriculture dated 21.06.2019. It was noted as follows:

1-4 xx

xx

xx

5. We may also point out that need to explore coordination with the ISRO for developing an App through BHUVAN ISRO's Geoportal to alert the village level officers or the local police where crop burning is noticed. The use of drones may be considered apart from satellite imagery to map the hot-spots in the same manner as is done in respect of forest fires and strategies be drawn accordingly. Finally, the monitoring network is required to be effective and more vigilant. Though Bhuvan, which is a geoportal of the ISRO, is said to have been used at macro-level, its use at micro-level so as to generate SMS alert needs to be

² 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.

explored at the ground level. These suggestions need to be considered by the Ministry of Agriculture in coordination with the concerned States and thereafter, further monitored at the grass root level by the concerned Deputy Commissioners/ Collectors.

6. We may also note a suggestion which has transpired during the hearing and has been put forward by Dr. S. Mukherjee, Registrar, Jobner Agriculture University, Jaipur that the crop residue has huge potential for the organic manure and decentralized composting units could be set up either in the concerned fields or common composting units at community level in a village or in a cluster of villages. At least one such pilot project needs to be considered in each State. This aspect may be further explored in the meeting of the Ministry of Agriculture with the concerned States within one month. We are informed that in the State of Rajasthan, this has been successfully tried by Sri Karan Narendra Agriculture University, Durgapura, Jaipur. Further, the gap analysis study may be undertaken in regard to the current situation, the challenges be identified and the necessary steps taken to mitigate the situation

9. We have for consideration minutes of meeting dated 25.09.2019 on the subject. The meeting was called by the Joint Secretary, Agriculture, Government of India with the representatives of the States of Punjab, Haryana and Uttar Pradesh. Progress of distribution of machinery is recorded as follows:

Name of the State	Physical Progress							
	Physical Targets (Nos.)		Application Received (Nos.)		Application Sanctioned (Nos.)		Machines delivered (Nos.)	
	Individ ual	CHCs	Indivi dual	CHCs	Individ ual	CHCs	Indivi dual	CHCs
Punjab	7600	6230	8746	5874	7712	5623	1658	2483
Haryana	15343	784	50598	913	9702	795	4506	4007
Uttar Pradesh	4077	1817	1918	1817	1918	1817	-	-
Total	27020	8831	61262	8604	19332	8235	6164	6490

10. Proceeding further are:

- “(ix) After discussion and hearing the comments from all the State Governments, it has been advised as under:-
- (a) As the paddy harvesting season is started in some pockets of the State of Punjab & Haryana, the States should ensure delivery and utilization of these machines to their full capacity.
- (b) Major focus should be on bringing more area under happy seeder which is a major, effective and economical solution to the farmers for paddy residues management

- (c) *As the crucial season has already begun, the States and KVKs should take up the IEC activities more vigorously to educate the farmers on ill effects of paddy residue burning and the advantages of incorporation of paddy residue into the soil."*

XXXXXX

XXXX

XXXXXXXXXX

XXXXXXXXXX

11. *The above statistics show that physical targets are not supported by any expert study to be effective enough to neutralize the impact of air pollution caused by burning of crop residue. In any case the said targets have not been achieved. As against target of 27020 individual and 8831 Custom Hiring Centres, machines delivered are 6164 and 6490. Overall average of success appears to be around 35% only*

12. *Thus, it does appear that unless further effective measures are adopted, the problem of air pollution by burning of crop residue may not be remedied. We are of the view that this concern needs to be addressed by effective environmental governance which is inalienable duty of the State. No doubt, the funds have been allocated by the Central Government for the purpose but the Central Government ought to provide further guidance in terms of effective strategies to be used for monitoring the situation. At the level of States, the responsibility may be more onerous and still more onerous at the District level. It may be desirable to have a special cell in the office of the Chief Secretary so that the situation is reviewed on daily basis atleast for next one month, even on holidays. Similar cells may be required at the offices of District Magistrates or at such other levels as may be considered necessary by the State Authorities. Such monitoring mechanism may be finalized by 07.10.2019 and placed on the website of the State which may encourage public participation and enhance awareness.*

13. *We do hope that with sincere efforts at all levels it may not be difficult to contain the problem in the interest of better air quality and public health.*

14. *We direct the concerned Joint Secretary, Ministry of Agriculture, Government of India and Secretaries, Agriculture of States of Punjab, Haryana and Uttar Pradesh (whatever may be the designation in the concerned States) to appear before this Tribunal alongwith their status reports on 15.10.2019 at 10:30 am for further consideration."*

3. We have heard the Joint Secretary, Agriculture, Government of India and the Secretaries of Agriculture Departments of the States of Punjab, Haryana and Uttar Pradesh.

4. The stand of the Joint Secretary, Agriculture, Government of India is that further review meetings have taken place and are scheduled. There is some further progress in delivery of machines. The target has been achieved for Punjab, Haryana and UP to the extent of 30%, 70% and 32% respectively. The status report filed on behalf of the State of Haryana does not show any further significant initiative. Similar is the position with regard to the State of UP and Punjab.
5. The fact remains that inspite of efforts said to have been made by the Central Government and the State Governments, on the ground level burning of crop is still taking place with all its adverse consequences on public health and environment for which no officer/authority is being held accountable. Even after information from satellite imagery there is hardly any tangible action to stop violations. The Air (Prevention and Control of Pollution) Act, 1981 provides for prohibiting burning of any material which is likely to cause air pollution and enforcing such prohibition in an appropriate manner including prosecution and recovery of compensation. Air pollution has adverse consequences on public health. Pollution free environment is right of every citizen and obligation of every State. This being the legal position, stand of the Central Government and the States that they are helpless is unacceptable. Just like enforcing law to prevent other crimes, the State has to own responsibility to enforce law to prevent pollution. The States are not doing this effectively. The States must take appropriate action against failure of its officers for preventing pollution caused by crop burning in such manner as may be appropriate. The strategy may be creating awareness, giving incentives or taking punitive action. It is

unfortunate that the State have failed to perform to perform its duty and have merely pleaded helplessness on the ground that whatever action was possible have been taken.

6. Even in five years if the State machinery is not able to communicate to the concerned farmers the techniques of sowing crops without burning of the crop residue of the paddy, it is an unhappy situation which needs to be remedied. If an incentive is to be given, it is for the State to decide and provide for the same. Even central funds or schemes are not fully utilized. Status as on 14.10.2019 is reported to be as follows:

“

Name of State	Physical Progress							
	Physical Targets (Nos.)		Applications Received (Nos.)		Applications sanctioned (Nos.)		Machines delivered (Nos.)	
	Individ ual	CHCs	Individu al	CHCs	Individ ual	CHCs	Individu al	CHC s
Punjab	7600	6230	7829	5821	7714	5628	2437	4631
Haryana	15343	784	51274	996	16676	811	5113	4662
Uttar Pradesh	4077	1817	1918	1817	1918	1817	1391	979
Total	27020	8831	61021	8634	26308	8256	8941	10272

”

7. It is undisputed that in-situ degradation of paddy residue is useful to the soil fertility while burning of crop results in requiring more fertilizer and less yield and damage to the soil. Such desirable result has to be ensured by the State by proper monitoring. Failure in this regard cannot be a ground not to enforce the mandate of preventing pollution and a mechanism of immediate intervention to stop burning which is not shown to be happening. Linking of failure to demand for more subsidies from Central Government is not justified. The States

have to come out with enforcement or other strategies, including further incentives, if any.

8. It is clear that steps taken are inadequate and do not provide for ground checking and vigilance and extinguishing of illegal fires. Preventive remedies of communicating with the farmers the disadvantages of burning are also unsatisfactory and ineffective. There is no effective incentive mechanism. The effective steps should include successful communication with the farmers, effective prevention of fires, supply of suitable equipment without unbearable cost for the farmer, change of crop patterns, use of labour by Panchayats under Rural Employment Guarantee Scheme, purchase of crop residue for fuel or composting and fixing accountability of officers for the failure.
9. The Central Government as well as States may place on their respective websites the data of fire incidents, responsible officers for the subject for the entire areas and action taken for the failures on daily basis.
10. Let the action plans and enforcement strategies be reviewed. The States may allocate such funds as may be found necessary to take remedial action.

List again on 15.11.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 15, 2019
Original Application No. 666/2018
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.
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	1-2
II	Order dated 08.10.2018	3 – 14
III	Orders in related matters	15 – 20
IV	Review of compliance status of directions for remedial action - orders dated 15.03.2019, 06.08.2019, 20.11.2019 and 21.08.2020	21-25
V	Consolidated Report of CPCB dated 05.04.2021 with regard to compliance status of directions dated 21.8.2020	26 – 27
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 – 29
VII	Current (Fifth) and final review on the subject - Analysis of the CPCB report dated 05.04.2021 for this order	30 – 55
VIII	Consideration of way forward and Directions	56 - 60

- 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 Wadhera 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.

xx

xx

xxx

22. xxx.....xxx.....xxx

- 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

Item No. 19

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 249/2024(CZ)

Suo moto action on the newspaper articles dated 16.11.2024 published in Times of India titled as "MP Faces burning questions on sharp rising fires"

Suo moto.....

Date of Hearing: **07.02.2025**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

For Applicant (s): None.

For Respondent(s): Mr. Prashant M. Harne, Adv.
Mr. Yadvendra Yadav, Adv.
Ms. Parul Bhadoria, Adv.

ORDER

1. The newspaper reports Times of India, Bhopal, Saturday, 16.11.2024, Times city has published air pollution due to stubble burning in Madhya Pradesh.
2. The article states as under :-

While North India, especially, is battling the smog caused by stubble burning in neighboring states of Punjab and Haryana, beside the residue left by crackers burst during festivals and vehicular pollution. It the heart of India-Madhya Pradesh- that played spoilsport with the highest cases of stubble burning reported in the Country, so far. MP has reported 8917 paddy stubble burning cases as against 7626 in Punjab.

Data from the consortium for research on agro-eco system monitoring and modeling from space(CREAMS)

an disciplinary research initiative of the Indian Agriculture Research Institute, New Delhi, reveals that between September, 15 and November, 14, the highest incident of paddy stubble burning were reported from MP. This is the highest in past three years in the state while in contrast, this year in Punjab, the number of incidents dropped to 7626 during the same period.

Farmer representatives attributes this new phenomenon of paddy stubble burning in MP to the unavailability of alternatives, an increase in paddy sown areas and also the absence of Government support.

There has been an increase in the new sown area of paddy in the state. In other states, governments have provided support like collecting the paddy residue from farmers and supplying it to industrial units as fuel, but there is no such initiative in the state. Even cattle donot eat it.

Farmers are left with no options. Let the government provide alternatives, and farmers will happily follow them. It should either compensate farmers for it or make some arrangements. Because manually taking out the residue will further corner the farmers financially, and if they leave to rot and get converted in manure, then they will loose one crop. The government could also subsidies machinery and equipment needed to tackle the problem. There has definitely been an increase in paddy cultivation, which is also a reason.

Use of manual labor for harvesting, is not economical but saves from the residues. However, now there are machines which, when used, leave no residue, but they cannot be afforded by majority. The government

should make it available at the village panchayat level, it would address the issue on a large scale.

The two districts, Sheopur and Narmada Puram, reported 3078 of these 8917 incidents. This accounts for 34.5% of the total cases reported in the state. Sheopur reported 1822 cases in the same period, and Narmada Puram reported 1256 cases. Besides these two districts, four other districts reported more than 600 incidents in the same period, namely, Jabalpur (695 incidents), datia (692 incidents), Guna (608 incidents), and Ashok Nagar (607 incidents). Thus, these six districts together account for 5680 or 63% of the total incidents reported this year from the state until Nov.14. It requires collective efforts and long-term planning at village panchayat levels. Coercive action would also be taken after persuasion fails. In Narmada Puram, officials say that several measures, including persuasion, awareness drives, and providing alternatives through technical interventions, are being taken along with strict action as and when required to put a check on the malpractice.

There are some agricultural equipment like happy seeder and super seeder. We are trying to popularize the use of these. We have procured around 50 such equipment's, and it is available for hire for the farmers. There is no need for stubble burning when happy seeders are used; one of its components uproots the residue, and the other sows the seeds simultaneously.

One of the reasons here in the district is that farmers cultivates 3 crops in the case of two crops, farmers have time to prepare the field, but in places like this, farmers are in a haste to prepare fields.

3. A research paper published in IGIRT/Vol.-9, Issue-1, ISSN-2349-6002, published by Dr. Gargee Yadav, Associate Professor for Solution to Parali Burning, has highlighted the issue and found certain suggestions and taken the note from that article, the article says –

The main reason for burning the rice stubble (rice crop) is the short time available between harvesting rice and sowing wheat. Delays in wheat cultivation negatively affect the wheat crop. The short time frame available between rice and wheat crops can also be attributed in part to the Punjab Preservation of Subsoil Act of 2009, where the date of rice cultivation is set in mid-June, pushing forward the harvest of the rice crop. As a result, farmers get less than 20-25 days between two crops, so the quickest and easiest solution is to burn crop residue. It is estimated that 20 million tons of rice stubble are produced each year in Punjab, 80% of which are burned on the farm. It is a low-cost alternative to tilling in straws. Under these circumstances, farmers may feel they have no choice but to burn the hay.

i THE OUTCOME OF PARALI BURNING

Burning crusts (orparali) releases gases such as carbon monoxide and carbon dioxide leading to severe air pollution. It also has a negative impact on human health.

During the harvest season, the harvest of rice fields generates a huge amount of stubble that needs immediate dumping. Farmers usually collect the stubble and put it on fire because it is the easiest way to dump it without leaving any trace of waste on the soil horizon. However, doing so creates a serious problem that is directly linked to our environment. Researchers have

shown that burning agricultural biomass residues poses a significant health risk. It not only affects organic carbon levels in the soil but also produces an uncontrollable amount of harmful smoke that causes air pollution to the immediate vicinity.

a) Contribution to atmospheric pollution

Burning parali is a major contributor to atmospheric pollution, ranking third only to industrial emissions and vehicles. The terrible fog surrounding India's national capital region was directly associated with stubble burning, coinciding with burning periods in October and November. A large number of toxic pollutants are emitted into our atmosphere due to the open burning of the parali. These pollutants also contain harmful gases such as methane, carbon monoxide, volatile organic compound and carcinogenic polycyclic aromatic hydrocarbons.

Studies have shown that burning parali has caused a significant deterioration in the air quality surrounding Punjab and Haryana. These harmful gasses are also transmitted through other parts of northern India, posing a serious threat to biological life.

These toxic gases build a cloud of ash and turn into a smog formed by the intense amount of smoke in the atmosphere. These harmful gases create a dangerous casing that has the ability to travel thousands of kilometers, increasing the level of air pollution in connected cities by destroying the entire Air Quality Index (AQI) and becoming a cause of many health problems.

The significant increase in particulate matter 2.5 and 10 can be directly attributed to the burning of stubble during peak seasons in October and November. Besides

the stubble burning, entrainment of husk particles in the air from the threshing and shattering process of rice and wheat seeds also contribute to the gradual increase in the magnitude of the pollutant level.

The burning of husk contributes to the frequent formation of brown clouds that have a negative impact on local air quality, hindering atmospheric visibility and further affecting the causes of climate change. Smoke from this burn produces a cloud of particles visible from space and produces what has been described as a "toxic cloud" in New Delhi, leading to the declaration of an air pollution emergency.

b) Human health implications

Multiple health effects on humans on humans have been observed from the resulting air pollution, ranging from skin and eye irritation to severe neurological, cardiovascular, and respiratory diseases. Prolonged exposure to elevated pollution levels also increases mortality rates - according to research, Delhi's resident life expectancy has fallen by about 6.4 years due to exposure to elevated levels of pollution.

The burning of parali emits fine particles (PM2.5), an air pollutant that is a concern for people's health when levels in the air are high; particles can attach to the lungs and increase the risk of lung cancer by 36%.

c) Cost to the economy

According to reports, the flow of tourists in Delhi decreased by about 25-30% due to the increase in air pollution.

Burning parali creates disruptions in economic activity (cancellation/delay in flights and trains, slow road traffic and accidents). The cost of air pollution due to the

burning of parali in India is estimated at \$30 billion annually.

d) CONCLUSIONS

Stubble burning, especially in Northern India has been considered as an easiest and most widely used process to get rid of the crop residue. However, it has had a disastrous impact on the environment and with each passing year the condition is becoming worse. It contributes to the frequent formation of brown clouds that have an adverse effect on the local air quality, hampers atmospheric visibility and further impacts the reasons for climate change. There are multiple alternatives to stubble burning and farmers can choose between the technologies and machines most suited to their particular local conditions, with the objective of 'no burning'. The government should play the part of an enabler by spreading awareness about the pros and cons of each option, so as to eliminate confusion and ease the adoption of new technologies by removing socioeconomic barriers. Parali burning has impacted the environment in such an alarming level that it cannot be ignored anymore. Only banning and punishing the farmers, the prevention of stubble burning is not guaranteed. There needs to be a permanent and effective solution for this issue to stop from happening in the future. Supreme Court of India has also intervened in this grave issue and accordingly has observed that:-

- i. Incentives could be provided to those who are not burning the stubble and disincentives for those who continue the practice.*
- ii. The existing Minimum Support Price (MSP) Scheme must be so interpreted as to enable the States concerned to deny the*

benefit of MSP wholly or partly to those who continue to burn the crop residue.

iii. To create practical options of collecting and transforming the husk to more reusable end products in collaboration with entrepreneur companies willing to offer the services.”

4. Times of India dated 20.11.2024 has further highlighted air pollution impact and published that it is impacting the lungs of majority of citizens in Bhopal, irrespective of the claims about air quality index. The bad air can be gauged by the fact that Gandhi Medical College, Hamidia Hospital has recorded a significant increase in hospitalization due to Chronic Obstructive Pulmonary Disease (COPD). The medical Doctors suggest that the poor air quality and pollution is leading to asthma and bronchitis cases among the new born and elderly in the city.
5. It is a serious issue impacting the citizens affecting the health and economy of the state.
6. The matter was taken up by this Tribunal and a joint committee was constituted with direction to submit the factual and action taken report and suggestions with regard to remedial measures required to be taken.
7. In compliance of the order, members of the committee visited the site and submitted the report as follows :-

“1.0 Status of Paddy production & crop residue generation in Madhya Pradesh

Increasing productivity on limited land to meet the expanding demand arising from population growth and higher incomes is a critical challenge. Madhya Pradesh, with its agrarian nature, has approximately 74% of its population directly or indirectly dependent on agriculture. To enhance productivity, timely and precise field operations are essential. Agricultural mechanization plays a crucial role in achieving this. Since gaining independence, the state has consistently strived to enhance agricultural output through the implementation of various mechanization plans and projects. As a result of the various programs implemented by the Department of Farmer Welfare and Agriculture Development, Madhya Pradesh, the level of mechanization has been steadily increasing over the years. However, it's noteworthy that farm power availability in the Madhya Pradesh state was 3.01 Kw/Ha in the year 2023-24. In comparison, Punjab boasts a farm power availability of more than 4.00 Kw/Ha, and the national average stands at 2.75 Kw/Ha. This indicates that the level of mechanization in the state is relatively lower compared to Punjab.

Madhya Pradesh is an agricultural state with soyabean, wheat and rice (paddy) as major crops. The soyabean and wheat straw is used as fodder by the animal, whereas, the use of paddy straw is limited. The average paddy production per hectare is 3.4 Tons against which average 5.5 Ton is the paddy crop residue generation. The area under paddy production increased from 38.48 Lakhs Ha to 49.74 Lakhs Ha since 2022. Simultaneously the paddy crop residue increased too i.e. from 21.16 million Tons to 27.3 million Tons. The details of area under paddy sown in M.P. during Kharif season viz-a-viz paddy straw generation are as under:

Year	Area under Paddy (Lakh ha)	Production (Lakh M Ton)	Paddy crop residue Generation (Million Ton) @ 5.5 T / ha
2022	38.48	131.26	21.16

2023	41.10	140.36	22.61
2024	49.74	169.61	27.30

The year-wise crop burning events reported since 2020 to 2024 for 05 states viz. Madhya Pradesh, Uttar Pradesh, Punjab, Haryana, Rajasthan are as tabulated below:

S.No.	State	Crop Burning Events Year Wise (Period 15 September- 30 November)				
		2020	2021	2022	2023	2024
1.	Madhya Pradesh	14148	8160	11737	12500	16360
2.	Punjab	83002	71304	49922	36663	10909
3.	Uttar Pradesh	4631	4242	3017	3996	6142
4.	Haryana	4202	6987	3661	2303	1406
5.	Rajasthan	1756	1350	1268	1775	2772

As illustrated in the table, the number of burning events has risen steadily, reaching a concerning peak in 2024. This alarming trend is exacerbated by the expanding paddy cultivation area, which has grown from 38.48 lakh hectares to 49.74 lakh hectares in the past few years. This increase in agricultural output, coupled with a lack of awareness and limited viable alternatives for residue management, compels many farmers to resort to burning as a seemingly quick solution.

1.1 Status of Crop residue burning events Since 2020 to 2024 in winter season (15th Sept to 30th November):

The paddy crop residue burning satellite observation is done through the “Consortium for Research on Agroecosystem Monitoring and Modeling from Space” a Division of Agricultural Physics, ICAR-Indian Agricultural Research Institute, New Delhi. The crop residue burning incident communicated on daily basis during 15th Sept to 30th Nov to respective agricultural department of the 05 States (Punjab, Haryana, Uttar Pradesh, Delhi & Madhya Pradesh). The Madhya Pradesh agriculture department, through Director of Agriculture Engineering communicate the reported fire incident to respective districts for further action.

The year-wise paddy crop residue burning status of 50 districts from 15th Sept to 30th Nov of last 05 years 2020 to 2024 are as tabulated below:

S.NO.	District	2020	2021	2022	2023	2024
1.	Sheopur	1862	1013	1800	1859	2508
2.	Jabalpur	2671	1426	1982	1984	2464
3.	Hoshangabad	1060	1067	1099	1181	1666
4.	Gwalior	2058	848	1583	1072	1528
5.	Datia	1188	498	861	915	1303
6.	Raisen	619	361	465	407	824
7.	Ashok Nagar	156	90	188	278	760
8.	Satna	577	526	504	394	714
9.	Guna	70	12	124	468	639
10.	Seoni	1234	897	1127	1438	536
11.	Bhind	269	159	209	270	510
12.	Shivpuri	396	112	286	301	461
13.	Katni	326	119	224	274	347
14.	Narsingpur	309	172	250	232	344
15.	Sehore	164	153	227	193	331
16.	Vidisha	145	123	94	152	222
17.	Rewa	143	120	101	95	205
18.	Mandla	152	119	153	97	155
19.	Damoh	75	53	70	100	102
20.	Sagar	28	31	55	92	101
21.	Chhindwara	136	59	102	178	41
22.	Panna	50	23	41	48	87
23.	Morena	62	37	25	48	80
24.	Bhopal	52	40	43	50	78
25.	Shajapur	22	0	0	20	40
26.	East Nimar	23	7	11	56	39
27.	West Nimar	68	12	20	45	39
28.	Umaria	9	11	16	11	27
29.	Dhar	48	0	0	45	26
30.	Betul	37	16	27	44	23
31.	Mandsaur	15	0	0	6	23
32.	Balaghat	9	6	5	4	22
33.	Indore	4	0	0	12	15
34.	Ujjain	18	0	0	18	15
35.	Harda	14	21	11	31	14
36.	Sidhi	4	6	4	2	14
37.	Anuppur	3	2	7	3	9
38.	Dewas	8	0	0	14	8
39.	Singrauli	0	7	3	18	8
40.	Nimach	2	0	0	1	7
41.	Chhatarpur	9	0	2	3	6
42.	Barwani	6	0	0	3	4

43.	Dindori	0	0	1	3	4
44.	Rajgarh	13	3	5	11	4
45.	Ratlam	10	7	3	6	3
46.	Tikamgarh	5	0	1	6	2
47.	Burhanpur	16	3	5	10	1
48.	Shahdol	3	1	3	2	1
49.	Alirajpur	0	0	0	0	0
50.	Jhabua	0	0	0	0	0
Total		14148	8160	11737	12500	16360

The last 5 years satellite recorded crop residue burning events reveals that in 21 districts there are more than 100 reported cases during the period of 15th Sept to 30th Nov. The district map and direction-wise classification of the major districts.

District Located in	No. of cities	Name of the District reported more than >100 crop residue burning
North	07	Sheopur, Gwalior, Datia, Bhind, Shivpuri, Guna, Ashok Nagar
South	03	Chhindwara, Seoni, Mandla
East	05	Rewa, Satna, Katni, Damoh, Jabalpur
Central	06	Sagar, Raisen, Sehore, Hoshangabad, Narsingpur, Vidisha

2.0 Air Quality (Sept to December) of the major cities near the major crop burning events sites:

Jabalpur, Gwalior, and Bhopal are the major cities with populations exceeding one million, around which the highest number of paddy crop residue burning events are reported. Under the National Clean Air Program (NCAP) by the Ministry of Environment, Forest and Climate Change (MoEFCC) and the XV Finance Commission, seven cities in Madhya Pradesh have been identified for air quality improvement: Bhopal, Indore, Jabalpur, Gwalior, Dewas, Sagar, and Ujjain. The western part of Madhya Pradesh, which includes cities like Indore, Ujjain, and Dewas, has the least number (<100) of paddy crop residue burning events.

Based on the Air Quality Index (AQI) data, Gwalior's air quality during the winter season exceeds the Good Days AQI threshold of 200. Considering the AQI data measured during the winter season and the locations of the CAAQMS stations in these cities, it is evident that there are other activities that contribute to the AQI of that location. It includes the Vehicular emission, transportation and garbage burning as main source of PM 10 and PM 2.5 which affects the AQI mostly. The increase trend of AQI during winter is not only because of the stubble burning as other local activities are also contributing towards the AQI simultaneously. In this regard it is appropriate to consider the stubble burning not as the prime cause of increase in AQI of these cities but may affect it up to certain extent.

2.1 Air Quality status in 07 cities since 2019-20 to 2023-24

The 07 cities of Madhya Pradesh i.e. Bhopal, Indore, Jabalpur, Gwalior, Sagar, Ujjain & Dewas identified under non-attainment cities based on the level of air pollution (PM10) in year 2019-20. And to improve the air quality funding were provided under National Clean Air Program & Fifteenth Finance. The cities have initiated action in line with the micro action plan prepared covering major activities viz. carrying capacity, monitoring & enforcement infrastructure, road dust, industrial pollution, biomass burning, vehicle pollution and others.

The status of air quality improvement since 2019-20 to 2023-24 is as tabulated below:

S.NO.	City	PM10 Concentration ($\mu\text{g}/\text{m}^3$)		City-wise Air Quality improvement status (%)
		2019-20	2023-24	
1.	Bhopal	138	110	20
2.	Jabalpur	98	89	9

3.	Ujjain	88	80	9
4.	Sagar	72	68	6
5.	Gwalior	135	130	4
6.	Dewas	89	94	-6
7.	Indore	86	92	-7

The air quality improvement status reveals that Bhopal has the highest i.e. 20% improvement in the air quality. The prominent city of crop residue burning events viz. Jabalpur, Gwalior has also shown improvement too.

However, the PM10 level of Bhopal & Gwalior is still higher than the 24 Hourly PM10 standard i.e. 100 µg/m³.

2.2. 100 Days Winter (November to January) Action Plan

To improve the air quality, 100 days winter action plans were prepared by these 7 cities covering following 24 activities:

- i. IEC activity (open waste burning/ biomass burning/ crop residue burning)*
- ii. Enforce solid waste collection and impose fine/challan home burning activity.*
- iii. Ban on burning of wood/ coal in hotels/restaurants/dabba/open Bhatti/ tandoor*
- iv. Ban on Alav/bonfire and introduce LPG/electric heaters*
- v. Construction of pit in garden and produce compost*
- vi. Convert agriculture waste into biochar or compost*
- vii. C & D activity: inspection, challan, collection, green net*
- viii. Headline no. for burning/ C&D activity*
- ix. Strict checking of PUC of waste collecting /commercial vehicles*
- x. Checking of fitness certificate of vehicles*
- xi. Promoting electric rickshaw and bicycles*
- xii. Heavy vehicle restrictions.*
- xiii. Free left turns at traffic intersection.*
- xiv. Campaign to inspect four Wheelers and commercial vehicles for emission.*

- xv. *Special drives for maintenance and increase green cover*
- xvi. *Mechanical road sweeping*
- xvii. *Water sprinkling*
- xviii. *Fogging with water sprays*
- xix. *Water jetting machine for cleaning off road medians and footpath*
- xx. *Fountains : maintenance and development*
- xxi. *Paving of roads/building of roads*
- xxii. *Increase pedestrian infrastructure/cycle track*
- xxiii. *Action to relocate all illegal brick kilns*
- xxiv. *Constitution Monitoring Committee for daily monitoring of activity*

Agricultural department organized IEC activities to aware the farmers on the ill effect to environment and soil of the crop residue burning.

3.0 Action taken by Govt of Madhya Pradesh, Department of Farmer Welfare and Agriculture Development, Madhya Pradesh to minimize the crop residue burning

Directorate of Agricultural Engineering of Department of Farmer Welfare & Agricultural Development (DFW&AD) is the nodal department who is responsible for mechanization of the agricultural activity and also record the crop residue burning events and initiate action to minimize the same through concern departments.

Madhya Pradesh State has initiated following actions in last 5 years to control the practice of paddy residue burning:

3.1 In-situ management of the paddy residue:

- i Implementation of “**Central Sector Scheme - Sub Mission on Agriculture Mechanization (SMAM)**”. Under this scheme*

department provides subsidies for the procurement of machinery for in-situ crop residue management by individual farmers or for establishing Custom Hiring Centers (CHCs). To date, 31284 Crop Residue Management (CRM) machines have been distributed to farmers, and CHCs were strengthened by 7007 CRM machines. The year -wise detail since 2017-18 is as tabulated below:

Sr. No.	Year	Funds utilized (Rs. in Crores)	No. of CRM Machines used by individual farmers	No. of CRM machine sent to CHCs
1.	2017-18	45.65	4067	954
2.	2018-19	74.90	4468	1065
3.	2019-20	103.05	4925	885
4.	2020-21	109.96	2705	727
5.	2021-22	61.64	3406	759
6.	2022-23	69.10	5474	929
7.	2023-24	126.05	5162	1491
8.	2024-25 (as on Dec 24)	59.67	1077	197
	Total	650.02	31284	7007

The number of CHCs established under assistance of Govt subsidy are as tabulated below:

S.NO.	District	CHCs established under assistance of Govt subsidy
1.	Sheopur	19
2.	Jabalpur	57
3.	Hoshangabad	42
4.	Gwalior	32
5.	Datia	30
6.	Raisen	48
7.	Ashok Nagar	41
8.	Satna	67
9.	Guna	34
10.	Seoni	46
11.	Bhind	29
12.	Shivpuri	38
13.	Katni	48
14.	Narsingpur	54
15.	Sehore	56
16.	Vidisha	50

17.	Rewa	31
18.	Mandla	35
19.	Damoh	46
20.	Sagar	43
21.	Chhindwara	49

The Custom Hiring Centers (CHCs) are equipped with a variety of machinery including cultivators, rotary tillers, threshers, seed drills, trolleys, raised bed planters, straw reapers, MB ploughs, sprayers, disc harrows, laser levellers, zero till seed drills, ridge furrow seed cum fertilizer drills, **reaper binders**, reapers, dozers, **super seeders**, harvesters, rice transplanters, potato planters, chisel ploughs, **mulchers**, disc ploughs, **happy seeders**, **shredders**, power harrows, ridge fertilizer drill cum planters, and garlic planters.

The machineries which are majorly used to minimize crop burning events are super seeder/mulcher/happy seeder/shredder/reaper binder.

By using reaper binder machine followed by cultivator, farmers can use field for next crop. Also, machinery like Shredder & mulcher or Super/happy seeder, Shredder & Baler are also enough to provide next crop ready farm.

The CHCs established under assistance of Govt subsidy and private established are brought on **MP Kisan APP** to provide ease to the farmers to approach to the CHCs and avail services of CRM machineries on payment basis.

ii. State has introduced a scheme named **“Mukhya Mantri Narwai Prabandhan Yojna”** in year 2023-24. The aim of the scheme is to control the crop residue burning and to carry out awareness program for it. Under the scheme, subsidy is being provided as per guideline for procurement of machinery for in-situ management of crop residue by individual. Till now 1100 CRM machines have been provided to the farmers the details as under:

Sr. No.	Year	Funds utilized (Rs. in Crores)	No. of CRM Machines Provided
1	2023-24	9.38	700
2	2024-25 (as on Dec 2024)	5.80	400

3.2 Ex-situ management of the paddy residue:

Currently, the ex-situ management of paddy residue is not yet started effectively. Few private establishments are in work of shredding and baling the paddy residue and sell majorly in Agra city of Uttar Pradesh. Else no major establishment is in operation currently.

However, M/s Reliance Bio Energy is tentatively going to commission 05 Compressed Bio Gas Plant by FY 2025-26. Out of which 04 will run on paddy straw & 01 on soya husk as primary feedstock. These 04 CBG plant will commission in Satna, Jabalpur, Bhopal & Balaghat. The total required quantity will be 210 Kilo Tons. The details are as tabulated below:

S. No.	District	Address	Tentative Quantity (KT)	Tentative year of commissioning
1.	Satna	Reliance Bio Energy Limited, Khasra No-274,275,288, Sitpura, Nagod	60	2025
2.	Jabalpur	Reliance Bio Energy Limited, Khasra No-36(S),37(S) ,Village-Kheri, Tehsil-Panagar	50	2025

3.	Bhopal	Reliance Bio Energy Limited, Near SAM College, Raisen Road, Village-Sagoni Kalan & Chhawani Pathar, Tehsil-Huzur	50	2025
4.	Balaghat	Reliance Bio Energy Limited, Gram Panchayat -Dhansua, Tehsil: Balaghat	50	2025

CBG plant of M/s Gas Authority of India (GAIL) are also in planning phase.

To improve the ex-situ management of paddy straw, the state must establish a greater number of Compressed Biogas (CBG) plants, Pelletization and Briquette plants. Incentives and subsidies should be provided to support the establishment of these facilities. Additionally, to enhance the utilization of crop residues in industrial boilers, power plants, brick kilns, packaging, and furniture manufacturing units, the state needs to develop an efficient supply chain.

3.3 IEC activities and Awareness program:

- i. The Borlaug Institute for South Asia (BISA), Jabalpur, is offering training programs to farmers on sustainable agricultural practices that mitigate the effects of climate change. These programs focus on techniques such as zero-tillage cultivation for paddy and wheat, efficient stubble management, and the adoption of new crop varieties. The Department of Farmer Welfare and Agricultural Development lead the implementation of these programs, with initiatives aim to enhance

agricultural productivity, reduce environmental impact, and improve the livelihoods of farmers in the region.

ii. **Stubble burning free village programme:** - Department of Farmer Welfare and Agriculture Development vide letter No. AGR/24/0082/2024-NFSM-FWAD(Cno.353206)/359 dated 25-09-2024 directed all district officers to make 400 villages stubble-burning free. To achieve this, intensive departmental activities were conducted to educate farmers on the detrimental effects of stubble burning. This initiative involves collaborating with progressive farmers to eliminate stubble burning and promote sustainable agricultural practices, particularly zero-tillage sowing. By showcasing successful crop demonstrations conducted by these farmers and disseminating information through village meetings and other platforms, the aim is to encourage the adoption of zero-tillage, which enhances soil fertility, conserves resources, and minimizes environmental harm. This collective effort strives to create stubble-burning-free villages, fostering a more sustainable and environmentally responsible agricultural landscape.

iii. Department of Farmer Welfare and Agriculture Development leads and coordinates diverse Information, Education, and Communication (IEC) activities to launch a widespread awareness campaign among farmers against crop residue burning. The Detail of activity are as follows:

Achievement of IEC Activities under CRM		
Sr. No.	IEC activities	Achievements (During FY 2024-25 till date 31-12-2024)

		Activities	No. of Participants
1	Awareness programmes conducted at Village Panchayat/ Block/ District Level		
	i. Village level	400	40000
	ii. Block level	100	10000
	iii. District level	30	3000
2	Training Programmes conducted	400	20000
3	Kisan Melas organized	7	3500
4	Mobilization of students through essay, painting competition, debate, Prabhat Pheris, Nukkar Natak, rallies, etc.		
	i. School	400	20000
	ii. College	15	1350
5	Demonstrations conducted (Using CRM Machinery) ha	Covered 400 Villages	Covered 1000 Hactare
6	Exposure visits organized	100	1000
7	Webinars Organized/ Lectures Delivered in Webinars on CRM	12	200
8	Advertisement in Print media	20	
9	Column / Articles in newspaper and magazines etc.	350	
10	Hoarding fixed (at Mandi/ Road side/ Market/ Schools/ Petrol pump/ Panchayat etc.)	95	
11	Poster/ Banner placed	450	
12	Publicity material - leaflets/ pamphlets etc. distributed	2,50,000	
13	Wall writing	100	
14	TV programmes/ panel discussions Doordarshan/ DD-Kisan and other private channels	30	
15	Audio-visual clips on TV	100	

16	No. of messages on CRM sent to farmers through other platforms	300000	300000

The IEC activities included following :

- (a) Jingles on Radio Channels*
- (b) Production of Advertisement Films*
- (c) Running of films on TV Channels*
- (d) Display Boards on Bus Stands, Market Committee Yards and all Cooperative Societies in the State*
- (e) Painting of walls in the villages with slogans against Paddy burning*
- (f) Massive print media advertisement*
- (g) Hoardings and Panels at prominent places*
- (h) Publicity Vans in the villages*
- (i) Rally by School children in last days of September and middle of October*
- (j) Deputing of Nodal officer for each village*
- (k) Pamphlets and leaflets to farmers*
- (l) Publically taking Oath not to burn agriculture residue on their land*

3.4 Prohibitory & monitoring related action initiated/taken by the State Govt & Agriculture Department:

➤ Prohibition on Burning of Crop Residue:

To curb the menace of stubble burning during post-harvesting season in the State, the Government of Madhya Pradesh, Department Environment in exercise of the powers conferred under section 19(5) of the Air (Prevention & Control of Pollution) Act, 1981 in consultation with the M.P. Pollution Control Board vide notification no. 12-37/2017/18-5 dated 15/05/2017 has prohibited the burning of agriculture residue in the Madhya Pradesh.

Any violation of this notification is punishable under the Air (Prevention & Control of Pollution) Act, 1981 by filing a complaint in the court of Judicial Magistrate first class.

It also provides imposing environmental compensation against defaulter.

“Any person or body that is found offending this direction would be liable to pay environmental compensation as follows:

- i. Small land holders having an area less than 2 Acres shall pay Environmental Compensation of Rs. 2500/- per incidence.*
- ii. Land holders having land area more than 2 Acres but Less than 5 Acres shall pay Environmental Compensation of Rs. 5000/- per incidence.*
- iii. Land holders having land area more than 5 Acres shall pay Environmental Compensation of Rs. 15000/- per incidence.”*

Further, District Magistrates in the State pass orders under section 144 CrPC, every season to prohibit burning of agriculture residue. Any violation of the order passed u/s 144 of CrPC is punishable u/s 188 of IPC.

➤ ***Daily monitoring burning of agriculture residue at village level***

To enable daily monitoring of agricultural residue burning incidents at the village level, the Department, through letter number tech/fasal auses parbandhan/2021-22/238 dated 09-03-22, directed all Districts to utilize satellite data (CREAMS - IARI) provided by the Directorate of Agriculture Engineering to identify hotspots in each village. Further, vide agriculture department order 3/2020/DAGE dated 25-09-

2020 instructions were given to all districts of M.P. that a district-level committee is to be constituted to prevent the practice of burning crop residues in the district and to promote sustainable agricultural practices. This committee works towards the effective implementation of the National Policy for Management of Crop Residue (NPMCR) 2014.

➤ **Mobile App for farmers and CHC owners:**

Recently Department developed the **MP KISAAN App** to enable farmers to easily locate and rent crop residue management equipment through a convenient platform, similar to Uber or Ola, within close proximity to their villages.

➤ **Impact assessment study**

Recently, Directorate of Agricultural Engineering has awarded a study “Techno Commercial Proposal For Impact Assessment Study Of Various Schemes Run By Agriculture Engineering Department” to NABARD Consultancy Services Private Limited (NABCONS) to study following:

- ❖ Study on Crop Residue Management Practices carried out by Madhya Pradesh Government.
- ❖ Incentives to farmers for purchasing implements and machines for crop residue management in light of NGT Directives under RKVY
- ❖ Assistance to Farmers for pre harvest agriculture implements and machines under RKVY scheme
- ❖ Skill development training to rural youths in farm machinery and drone operation
- ❖ Support to promote rental services of agricultural implements and machines.

This study is ongoing and the assessment on the above will provide a better picture on the current status of crop residue burning and rental services, incentives etc.

4.0 Summary:

Madhya Pradesh has seen a significant increase in paddy cultivation, with the area under paddy production rising from 38.48 lakh hectares in 2022 to 49.74 lakh hectares in 2024. This increase has led to a rise in paddy crop residue generation, from 21.16 million tons in 2022 to 27.3 million tons in 2024. The number of crops burning incidents has increased over the years, with 16,360 events reported in 2024, up from 12,500 in 2023. Districts like Sheopur, Gwalior, Jabalpur, and Hoshangabad have reported a high number of burning events. Whereas at 21 districts more than 100 crop burning event were recorded during year 2020-2024.

Major cities such as Jabalpur, Gwalior, and Bhopal have experienced high AQI during winter season; this may be primarily because of emission from activities within the city boundaries such as Vehicular emission, transportation and garbage burning in addition to the crop residue burning. Also, adverse metrological conditions such as low wind flow and cold earth in winter affects the AQI. Gwalior's AQI often exceeds the "Good Days" threshold, and other cities show similar trends, particularly during the winter season.

The state has implemented several measures to manage crop residue, including the distribution of 31,284 Crop Residue Management (CRM) machines and the establishment of Custom Hiring Centers (CHCs). The "Mukhya Mantri Narwai Prabandhan Yojna" scheme provides subsidies for CRM machinery to individual farmers. Efforts for ex-situ management are limited, but plans are underway to establish Compressed Bio Gas (CBG) plants by Reliance Bio Energy, which will use paddy straw as feedstock. Extensive Information, Education, and Communication (IEC) activities have been conducted to raise awareness among farmers about the harmful effects of stubble burning. These activities include training programs, village-level campaigns, and the promotion of sustainable agricultural practices. The state has

prohibited crop residue burning under the Air (Prevention & Control of Pollution) Act, 1981, with penalties for violations. District Magistrates also issue orders under section 144 CrPC to enforce this ban.

In spite of the efforts made by the state, the gap in the available crop residue management initiatives to its generation is too much. State & Agricultural Department with dept of Industries and Environment requires to take major initiatives for in-situ & ex-situ management of the residue to fill the gap by establishing a greater number of CHCs with adequate CRMs, incentives to farmers on the rental charges demanded by the private CHCs, increasing CBG plants, increasing use of pellet/briquette in brick kiln, Thermal power plant, small boiler units and other industries to replace the use of non-renewable fuel i.e. coal. The state has to develop supply chain of the baled crop residue to the buyer/user.

8. The submission of the learned counsel for the state pollution control board Ms. Parul Bhadoria are that the Bhopal Municipal Corporation has prepared city action plan with following directions to be acted upon by the official concerned these are :-

***“Bhopal City Action Plan for Winter Season
(100 days Plan)”***

Bhopal Municipal Corporation will perform following activities for the improvement in AQI of Bhopal city -

- *For dust suppression, since BMC has started spraying water at daytime (12:00 pm to 2:00 pm) and night time (11:00 pm to 02:00 am) for dusshera festival. But, specially during Dhanteras and choti Diwali and on the day of Diwali, BMC will increase the working hours*

of spraying from 11:00 pm to 4:00 am to maintain for city AQI.

- *Increased use of mechanical road sweeping machine along with fogger machine for better dust suppression.*
- *85 no. of fountains will be operational at various location of Bhopal.*
- *Increase in working hours of fogger machines.*
- *BMC will suppress dust by mechanical road sweeping machine, followed by suction of dust through sewer suction machine and then spraying of water for better results.*
- *PUC checking of all waste collection vehicles.*
- *Training of volunteers/ambassadors/swaksha grahi for open waste burying/biomass burning in the city,*
- *Deploy more resources/manpower for strict checking on open waste burning and spot fine activities.*
- *Inspection of under-construction activities sites/areas and impose fine for not using green cover/net on construction activities.*
- *Use of Helpline number 155304 for C&D waste and open waste burning activities in the city.*
- *Promotion of Green/Eco-friendly crackers.*
- *For proper disposal of firecrackers waste/residue, BMC performs separate mechanism of collection of firecrackers waste/residue through door-to-door vehicles, collects at all Garbage Transfer Stations (GTS) and finally sent to domestic hazardous waste processing facility, Pithampur for its proper disposal,*
- *Proper monitoring on C&D waste collection mechanism by BMC. As a result, BMC has now collecting C&D waste from 86 TPD to 100 TPD from 05 collection stations for CBD waste processing plant.”*

9. The Indore Municipal Corporation has prepared action plan under Swachh Bharat Mission as follows:-

**“100 Days Action Plan for Reduction of Air
Pollution in Winters**

Indore Municipal Corporation has proposed the following activities to be performed as a 100 Day action Plan for improvement of Air Quality Index.

- **Controlling Biomass and Garbage Burning:**
 - *Conducting CBPO events for eliminating the use of biofuels in cooking specifically in commercial establishments like hotels, restaurants, marriage gardens with the wedding season ahead.*
 - *Alternative Biomass Disposal Methods by converting agricultural waste into biochar compost.*
 - *An initiative of Indore Municipal Corporation, "Bhatti Free Market" activity will be done to raise awareness on effects of burning conventional fuels for cooking in commercial establishments like hotels, restaurants, marriage gardens with the wedding season ahead.*
 - *Use of 311 app to monitor the complaints of open waste burning if received.*
 - *Ban on burning of Wood/Coal specially in winters for Alaav.*
 - *Diwali Deep Cleaning Drive already operational as a special drive to collect the excess waste generated during the festivals.*

- **Enhanced Road Dust Management: Road Cleaning:**
 - *Scheduled mechanized street sweeping covering around 800km/day in all the 22 zones with high-traffic areas early in the morning and during night.*
 - *Water Sprinkling: the water sprinkling with frequency Early morning (6.00-7.00am), Afternoon (3.00pm-4.00pm) and Late night (after 11.00 pm) on major roadways, especially in the early morning hours when particulate matter tends to accumulate.*
 - *Fogging with Water Sprays: Introduce artificial water sprays during mornings and evenings in pollution hotspots to capture PM₁₀ particles in the air. This will also be done near industrial zones or high-traffic areas in the municipal limit.*
 - *A special plan prepared with route plan for water sprinkling and fogging during the Diwali festival.*
- *Public Transport and Electric Mobility Promotion*
 - *With around 180 CNG and 70 E-buses operational in the city, carbon free public transport infrastructure, additionally more than 110 E-buses will soon be operational in the city under "PM E-BUS YOJNA."*
 - *With around 26 charging stations having 211 charging points Installation of more EV charging stations citywide is underway to promote electric cars and two-wheelers, particularly in commercial and high traffic congestion areas.*
 - *Green BRTS : With 29 CNG and 30 E-buses, the BRTS in Indore is a green corridor in Indore city.*

- *Promoting electric rickshaws and bicycles for last-mile connectivity, reducing reliance on private vehicles in high-traffic areas.*
- *Public awareness events to be organized regarding the use of Cycles for travelling shorter distances. (1000 cycles through MYBYK are already operational in the city).*
- **Controlling Vehicular Emissions**
 - *Heavy Vehicle Restrictions: Limiting heavy vehicle entry during peak times in the city limit.*
 - *Planning to introduce Emission Control Zones- Designate low-emission zones (LEZ) in areas with high traffic congestion and commercial establishments.*
 - *Establishment of vehicle check stations to enforce compliance with Bharat Stage VI (BS-VI) emission norms.*
 - *Regular PUC checks in the city, and special drives to check PUC of commercial vehicles entering the city.*
- **Construction Dust and C&D Waste Management**
 - *Enforce strict dust control measures at construction sites during winter, requiring builders to cover materials and apply water regularly to suppress dust.*
 - *Instruction issued to all the construction agencies for following the "Guidelines on Dust Mitigation Measures in Handling Construction Material And C&D waste."*

- *Diwali Deep Clean Drive is already operational in the city collecting C&D waste.*
- *Use of 311 app for collection of C&D waste from different parts of the city.*
- **Ban on Firecracker Use:**
 - *Post-Diwali Ban: Enforce a ban on firecracker use in densely populated areas.*
 - *Promoting uses of Green Crackers.*
 - *Public Health and Awareness Campaigns*
- *Public information dissemination in commercial areas to raise awareness about air quality and PM risks.*
- *Awareness Drives: Educate students about air pollution and promote non-vehicle days or cycling.*
- *Awareness Drives: Educating the Safai Mitras and workers about affect of open waste burning on air.*
- *Awareness Drives: An Activity "Red Light ON Engine OFF" will be done to raise awareness among citizens for switching off their vehicle engines at the traffic signals.*
- **Increasing Green Infrastructure**
 - *Ahilya Vans, a unique initiative of Indore Municipal Corporation with development of around 90 ahilya vans, one in each ward of the city is nearly completed.*
 - *Special drives for plantation in the open spaces of the city are continuously running increasing the green cover of the city.*

- *Increasing green cover, especially in roadside areas to trap airborne dust.*
- *Increase vertical gardens along flyovers and busy streets to reduce the dispersion of particulate matter.”*

10. In the similar pattern the action plan has been prepared by the Ujjain Municipal Corporation, Ujjain as follows:-

“100 days Winter Action Plan for Air Pollution Reduction

1	Crackers	• <i>The Pollution Control Board will issue a notification to restrict the burning, of firecrackers to 22:00 hours and to allow only the use of green crackers.</i> • <i>The UMC will collect cracker waste the morning after Deepawali for its proper management.</i>
2	SWM. Biomass	• <i>Strictly prevent and penalize open burning of waste and biomass through monitoring.</i> • <i>A ward level team has been deployed in each ward for enforcing SWM rules and imposing fines on individuals for violation of rules (if any).</i> • <i>For effective collection and management of solid waste UMC has 2 nos, of existing transfer stations.</i> • <i>A dedicated team along with vehicles & machineries have been deployed for collection of dry and wet waster and transport it to transfer stations.</i> • <i>The categories-wise fine charges have already been notified in daily news against the violation of rules.</i> • <i>Fine will be implement to reduce single use plastic.</i> • <i>UMC has constructed compost-pits in each municipal parks/garden to prevent the burning of garden waste and produce compost from it.</i> • <i>The ward level team has issued Challans</i>

		<i>against the dumping & burning of solid waste and burning of biomass and collected penalty.</i>
3	<i>Road Dust and Vehicular Emission</i>	• <i>Integrated Traffic management System has established and maintain at all major traffic intersections to control traffic in the city.</i> • <i>UMC is Planning to implement EV Charging station in the city.</i> • <i>Traffic department and Ujjain Municipal Corporation are jointly enforcing to make left turn free at traffic intersections.</i> • <i>Concern government officials organized a campaign at multiple traffic intersections to inspect 4-wheelers and commercial vehicles for vehicular emission testing.</i> • <i>UMC is constructing Dust free roads and road median for improving traffic intersections.</i> • <i>Traffic department has restricted the entry of transport (Tempo, commercial vehicles) at commercial area to prevent from traffic congestion and dust pollution. Separate Routes have been identified for the operation of E-Rikshaw and Tempos as public transport.</i> • <i>Widening of Road will be taken under fy - 2024-25 Action plan.”</i>

11. In the similar pattern, Municipal Corporation, Sagar has also prepared a plan to be followed by the authorities concerned.
12. The matter of stubble burning was considered by the MoEF&CC and to control the air quality, necessary guidelines have been prepared and issued as follows:-

**MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE
NOTIFICATION**

New Delhi, the 6th November, 2024

G.S.R. 690(E).— *In exercise of the powers conferred by clause (h) of sub-section (2) of section 25 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (29 of 2021), the Central Government hereby*

makes the following rules to amend the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023, namely:-

1. Short title and commencement.- (1) *These rules may be called the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Amendment Rules, 2024.*

(2) They shall come into force on the date of their publication in the Official Gazette.

2. *In the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023 (hereinafter referred to as the said rules), for rule 3, the following rule shall be substituted, namely:-*

“3. *The Commission may impose environmental compensation as per the provisions of the Act for stubble burning, at the following rates:-*

(a) *the Farmer having an area of land of less than two acres shall pay an environmental compensation of five thousand rupees, per incidence*

(b) *the Farmer having an area of land of two acres or more but less than five acres shall pay an environmental compensation of ten thousand rupees, per incidence;*

(c) *the Farmer having an area of land of more than five acres shall pay an environmental compensation of thirty thousand rupees, per incidence.”.*

3. *In the said rules, in sub-rule (4) of rule 4, for the bracket, words and figures “The officer referred to in sub-rule (4)”, the bracket, words and figures “The officer referred to in sub-rule (3)” shall be substituted.*

4. For the Form to the said rules, the following Form shall be substituted, namely:-

“FORM

(See rule 3 and rule 4)

Challan No.....

Dated: ../../....

CHALLAN

In pursuance of the section 15 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (29 of 2021) and the Commission for Air Quality Management in National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) Rules, 2023, the Farmer described below was found/ has been reported to burn stubble or there is an evidence to the effect that Stubble Burning has happened in his land, and consequently Environmental Compensation has been imposed as per the Act and the rules mentioned above, and is directed to deposit such Environmental Compensation as per the following details, namely:-

- 1. Name of the Farmer:
- 2. House No. :
- 3. Street :
- 4. Village :
- 5. Post Office :
- 6. Tehsil :
- 7. District :
- 8. State :
- 9. Contact No.:
- 10. Details of land including Khasra, Khewat and Khatoni number of the land:
- 11. The area of land of the farmer who has resorted to stubble burning: (tick the appropriate box)

i	Less than 2 acres		ii	Between 2 to 5 acres		iii	More than 5 acres	

The Farmer named above may deposit the Environmental Compensation of Rupees (in words _____ only), through Cash or Demand Draft or through electronic mode in the account of respective State Pollution Control Board

or the Pollution Control Committee, as the case may be within thirty days from the date of Challan.

Signature :

Name :

Designation :

Address :

Seal of the Officer:

Contact No :"

13. In view of the above submissions and the report submitted by the joint committee, the remedial measures which have been suggested by the members of the committee are required to be seriously taken by the state and the district administration to control the stub burning and to maintain the air quality. The suggestions and recommendations are as follows:-

"1.0 Remedial measures

Following are the remedial measures which are to be adopted and action need to be initiated to manage the crop residue burning and improve the air quality:

- i. Considering the frequency of fire incidents every year, Department of Farmer Welfare & Agriculture Development shall prepare well- structured District & State action plan considering the frequency of fire events every year covering in-situ and ex-situ crop residue management based on the machinery and industrial establishments available in the area. It is required to incorporate inter departmental roles viz. Dept of Industries, Environments, Pollution Control Board etc. despite the single department responsibility i.e. agriculture dept.*
- ii. Incentives/subsidy needs to be provided on the rental*

charges demanded by the private CHCs establishment in tune to make the rental charges uniform for govt & private CHCs. Further, all the CHCs (Govt. & Private) shall be put on-board on the MP KISAAN APP and same shall be promoted among farmers. Also, maintenance and operational challenges of CRM machinery may be addressed in the least possible time to maximize usage and efficiency.

- iii. State shall create an effective supply chain of the crop residue from farm to industry viz. CBG plants, industrial boilers, power plants, brick kilns, packaging, furniture manufacturing units & others.*
- iv. Encourage corporate funding or CSR initiatives to support local farmers in adopting alternative stubble management technologies.*
- v. As there are technological advancements in agricultural machinery which makes older equipment less efficient or obsolete. Implementing a policy for the replacement of less usable machinery can help farmers stay updated with the latest technology. Few policies like, Trade-In Programs where farmers can trade in their old machinery for newer models at a reduced cost and Buy-Back Schemes where Government or companies buy back old machinery at a reasonable price, ensuring that farmers don't bear the full brunt of depreciation.*
- vi. Fire incidents are being reported on CREAMS:IARI on daily basis using satellite remote sensing in a limited time period, despite their efforts, there are still many non-reported fire incidents, intensive monitoring by district administrations and strict action against violators can indeed help curb this issue. It's crucial to ensure that all incidents are reported and addressed promptly to protect the environment and public health there should be more community involvement in monitoring and reporting of these incidents.*
- vii. During peak stubble burning days using drone cameras*

for surveillance with thermal imaging to detect fires quickly and accurately over large areas can be detected and acted upon swiftly with the involvement of senior officials in the monitoring process ensures accountability and quick decision-making. The combined use of advanced technology and increased human resources can make a substantial difference in managing stubble burning incidents.

- viii. The Department of Revenue shall ensure that patwaris make entry into the girdawri register details regarding the fields where incidents of crop residue burning have been reported.*
- ix. A mobile application like MP KISAAN APP may be developed for farmers and citizens to report stubble burning incidents, allowing for real-time tracking and quick response.*
- x. The Department of School Education shall educate students on the adverse effects of stubble burning on human and soil health, and on the availability of management options.*
- xi. Promotion of the alternate Zero-Tillage Farming, Happy Seeder Machines & mulching which reduces the need of crop residue burning.*
- xii. State needs to frame policies that incentivize long-term sustainable farming practices, such as crop rotation, diversification and organic farming, which reduce the dependency on burning. In addition to diversification, the staggered sowing of paddy need to be promoted to encourage the cultivation of short-duration paddy varieties.*
- xiii. During the period of stubble burning, monitoring should be done at the prominent locations to assess the impact of stubble burning in the air quality. To assess the contribution on crop residue burning in normal days air quality.*
- xiv. Stricter Enforcement of Laws:*

- *Enforce and strengthen regulations against stubble burning, with clear penalties for violations. However, enforcement should be paired with financial or technical support to help farmers adopt alternatives.*
- *As per notification issued dated 06.11.2024 by Ministry of Environment, Forest and Climate Change, Centre for Air Quality Management has revised the Environmental Compensation amounts against the violators as :*
 - a) *the farmer having an area of land of less than two acres shall pay an environmental compensation of five thousand rupees, per incidence;*
 - b) *the farmer having an area of land of two acres or more but less than five acres shall pay an environmental compensation of ten thousand rupees, per incidence; the farmer having an area of land of more than five acres shall pay an environmental compensation of thirty thousand rupees, per incidence.”*

14. We further direct that, the provisions contained in the notification dated 06.11.2024 issued by the MoEF&CC must be strictly observed with, in addition to the environmental compensation, with change of technology and replacement of less usable machinery, helping the farmers with the latest technology. All such incidents must be reported promptly to protect the environment and public health and necessary actions to control such incidents must be taken immediately.

15. With these observations the **Original Application No. 249/2024** stands **disposed of**.

Sheo Kumar Singh, JM

Dr. Vijay Kulkarni, EM

07th February, 2025
O.A No. 249/2024(CZ)
PN

**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)

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 and Mr. Salik Shafique Respondent No.1: Ms. Panchajanya Batra Singh, Adv. Respondent No. 2&4: Mr. Narender Pal Singh, Adv. 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 and Mr. Kush Sharma, Adv. For DDA Ms. Puja Kalra, Adv. For SDMC and North MCD Mrs. Avnish Ahlawat with Mr. Nitish Singh for DTC/Transport Department, GNCT Mr. I.K. Kafila, Mr. A.K. Singh and Mr. Shikha Roy, Advs. For Karol Bagh Traders Mr. Ruchir Batra, Adv. Mr. Rahul Mehta, Adv. For Delhi Electrical Traders Association Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P. Ms. Sakshi Popli, Adv. for NDMC Mr. Pragyan Sharma and Mr. Deshu Kayina, Advs. For State of Mizoram Mr. K.V. Jagdishvaran and Mrs. G. Indira, Advs. For UT of Andaman & Nicobar Islands Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. For State of Haryana Mr. Ravindra Kumar, Adv. And Mr. Gudipati G. Kashyap, Adv. for NOIDA and Greater NOIDA Authority Mr. Mukesh Kumar, Adv. For NHAI Mrs. Aruna Mathur and Mr. Auneesh Arputham, Advs. For State of Sikkim Mr. Rajul Shrivastava, Adv. For MPPCB Mr. Devraj Ashok, Adv. For State of Karnataka Mr. Sahil Sangar, Adv. -Local Commissioner Mr. Sahil Savgar and Ms. Sayewa Mubin, Advs. For Chandani Chowk SVM (Intervenor) Ms. Pallavi Mohan, Adv. For Impleaders in M.A. No. 392/15 and 393/15 Inspector Prashant Kr. For Kotwali Mr. Pratap Singh for PWD Mr. Ramesh Kr., Inspector Mr. Dalbir Singh, Insp. Mr. K.C. Anand, Insp. Mr. Vijay, Insp.

Mr. Ravinder Kr., ACP
Mr. Surinder Kr., Insp.
Mr. Vijay Pal Singh, Insp.
Mr. Devshanker, ASP
Mr. Manesh kumar, Insp.

Original Application No. 95 of 2014

Present:	Applicant:	Appearance not marked
	Respondent No.1:	Mr. Vikas Malhotra & Mr. M.P. Sahay, Advs.
	Respondent No.2-6:	Mr. Ardhendumauli Kr. Prasad, Adv.
	Respondent No. 7 :	Mr. Rahul Chaudhary, Adv.
	Respondent No. 29 :	Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
		Mr. Rahul Chaudhary and Ms. Pallavi Talware Advs. – Conservation ActionTrust.
		Mr. Devraj Ashok, Adv. For State of Karnataka
		Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. For State of Haryana
		Mr. Amit Verma and Mr. Aditya N. Prasad, Local Commissioners.

Date and Remarks	Orders of the Tribunal
Item Nos. 04 to 05 April 28, 2015 A	In the previous orders we had noticed high pollution of air in NCR Delhi. Needless to refer again to the various orders of the Tribunal where unquestionably it was clear from the records that ambient air quality of NCR of Delhi violates all prescribed norms and standards. The polluted air in NCR Delhi is injurious to human health particularly young children. It is in fact conceded on behalf of the Authorities present before us and the learned counsel appearing for various parties that the ambient air quality is so very injurious particularly to the children under the age of 5 years and they are suffering from asthmatic problems at this tender age. At the cost of the repetition, we may notice that there are three main sources of air pollution in the NCR of Delhi. They are dust, emissions resulting from burning and industrial pollution and finally the vehicular pollution. In relation to the pollution by dust we have already issued detailed directions vide order dated 10th April, 2015. Today we would take up the matter in relation to pollution by burning of various materials and pollution caused by emissions from industries.

		It is on record before us that the garbage and other burning is not the only source of the air pollutant and it forms nearly 29.4 % of the air pollution with reference to PM₁₀. Its contribution in terms of PM_{2.5} is not placed before us, despite our earlier orders. Burning trash in the open area produces many pollutants including dioxins, particle pollution, polycyclic aromatic hydrocarbons, volatile organic compounds, carbon monoxide, hexachlorobenzene and ash and fumes released can be carcinogenic. These are dimensions of the serious environmental issues that we are concerned with. It is absolutely essential that directions are issued by the Tribunal for prevention and control of air pollution requiring the Authorities concerned to stop this menace forthwith. Viewed from any angle, the high interest would call for prohibitory orders and imposition of fine and heavy compensation on violators, who for their short gains avoid hard work required of them in discharge of their duties and allow the burning of garbage, leaves and allied materials thus exposing the public at large to such serious life threatening diseases. There is complete unanimity at the bar that stringent steps are required to be taken to prevent and control air pollution particularly resulting from burning of garbage and other allied materials. We hereby restrain any person from burning crop residues and trash. Thus, we issue the following directions:- 1. All the directions contained in our order dated 04th December, 2014 shall continue to be in force and the Authorities concerned would carry out the said directions in their true spirit and substance.

	2. There shall be complete prohibition of burning of any kind of garbage leaves, waste plastic, rubber, self-moulding compound and such other materials in the open. Any person affected or concerned would have a right to make a complaint in writing or otherwise to the SHOs of the concerned area, the office of the Corporation, Council or Local Authority under whose jurisdiction that area falls, DPCC or State Pollution Control Board, and to its Regional Branches and to the Head of the Department of the concerned Authority/Government. We hereby direct every public Authority, Corporation, State Governments of NCT of Delhi, Uttar Pradesh and Haryana to forthwith notify the telephone numbers, website addresses or any other electronic media and process to which the complainant can make a complaint to any or all of the Authorities as indicated hereinabove. The complaints preferably should be made to the Authorities concerned who have jurisdiction over the area in which the offending activities is being carried on has been carried on. 3. We are informed that DPCC has already provided a Facebook account of Delhi Pollution Control Committee and the Whatsapp No. 09717593474 to this effect. All the Corporations within two days from today would notify on their websites the Website address and Mobiles Number to which such complaint can be made/sent. Similar steps should be taken by the concerned states falling in NCR. 4. It is directed that immediately upon receipt of such

		complaint, the concerned Authority and/or Authorities through the designated Officers would proceed to take action in accordance with law. 5. We direct that for every incident of burning of any such above stated material, the person who is found actually burning such material and/or responsible for or abating such burning would be liable to pay compensation in terms of the Section 15 of the National Green Tribunal Act, 2010 for polluting the environment and would be liable to pay a sum Rs. 5000, to be paid instantaneously. 6. In the event such offender refuses to comply with the directions of the Authorised Officers, the Authorised Officers would be at liberty to serve a Notice upon him for appearing before the Tribunal and to show cause why the person burning, abating or responsible for such burning materials afore indicated, be not directed to pay compensation as may be determined by the Tribunal in accordance with law. 7. We make it clear that the orders of the NGT are to be complied with as a decree/order of the Civil Court. Thus, all these Authorities and the Police are duty bound to carry out the directions/orders of the Tribunal in accordance with law. The money so collected, shall be maintained by the Corporation and/or any Authority as a separate fund to be utilised for improvement, restoration and restitution of the environmental degradation resulting from such activity or otherwise. 8. We make it clear that the payment of such

		compensation shall not absolve the offender of other liabilities that such person may incur under different laws in force including other provisions of the National Green Tribunal Act, 2010. 9. To ensure that there is no burning of leaves or horticulture residue, we direct all the Corporations, Authorities and the State Governments to ensure that there is proper composting pits area-wise prescribed within one week from today. The composting will be only at those sites and all the Corporations, Authorities and the State Governments shall be responsible to provide due space for collection and deposit of horticulture waste including leaves for composting purposes at these sites. 10. Each Officer under whose jurisdictions the area would fall, would be personally responsible and all the Officers. Officials working under him would be personally responsible for imposition of compensation and costs. If any activity is found to be carried out in any area of NCR of Delhi in violations to the Orders of the Tribunal and the law in force in that regard, the Deputy Commissioners, Director Horticulture, SHO concerned, Assistant Commissioners, Sanitary Officers of the area would be personally responsible. Similarly Officers from the State of Haryana and Uttar Pradesh would be personally responsible for compliance of these directions. 11. The composting sites should be provided nearer to the places where there is a large number of trees,

		gardens and the compost bits which also convert into self-manure should be used for horticulture purposes to ensure that the burden on the site does not increases beyond its capacity. 12. The decision in regard the land fill sites should be taken by the DDA and NCT of Delhi as expeditiously as possible in any case not later than three weeks from today. We may notice that Hon'ble Supreme Court of India in Writ Petition No. 888 of 1996 in the matter of Almitra H. Patel Vs. Union of India had directed the Authorities to identify such sites as back as on 15th February, 2015 unfortunately till date adequate number of sites have not been earmarked. Let this be done within the stipulated period under these directions and such sites be identified by the respective Corporations and Authorities if not done so far. 13. In relation to burning of plastic and allied produces, we issue specific directions to the concerned Police Officers and the Officers of the Corporations that no one would permit the burning of plastic and allied products in part of NCR of Delhi. If Authorities notice any burning of such materials they would not only ensure that such activity does not persist but even would be entitled to seize the entire material which is illegally and unauthorisedly stored held by a person is does not possess of a license or authorisation for dealing with such products in accordance with The Plastics Waste (Management and Handling) Rules, 2011. Upon seizure of such material, the Authorities would take a direction from

		the Tribunal and dispose of the same by giving it to the Authorised Dealer in accordance with directions issued. 14. The CPCB and DPCC would jointly conduct inspection of all the thermal power stations generating electricity using coal and gas as its fuel within two weeks from today. The ambient and stack air quality samples would be collected and the analysis reports be submitted to the Tribunal. This amongst others would include Badarpur, Indraprastha, Rajghat, Dadri and Bawana plants. We make it clear at this juncture that all these power generating plants should improve their working and should be fully sufficient so as to cause no pollution. In the event of violation of prescribed standard, the Tribunal would be compelled to pass coercive orders in accordance with law. 15. The CPCB, DPCC and Uttar Pradesh and Haryana Pollution Control Boards shall ensure that brick kilns working and operating in NCR have consent of the Boards and are adhering to the prescribed norms for emissions. 16. In the event of any of the brick kilns found to be in violation of the environmental norms or is operating in violation to the conditions of the consent order, the Report shall be submitted to the Tribunal and notice upon such Units to show cause why they should not be directed to be closed forthwith for such violations. While conducting inspection of such brick kilns, it will also be reported as to what extent the fly ash is being used for the purposes of

	manufacturing the bricks. If none, causes thereof. 17. We direct the Local Bodies, Corporations, Councils and the State Governments of NCT of Delhi, Uttar Pradesh and Haryana to immediately publicise and educate public at large, particularly the people living in unauthorised colonies, farmers and persons dealing with different kinds of waste, safai karamchari in regard to the ill effects of burning of the materials afore-recorded on the human health. Necessity for taking up remedial and corrective measures and also punitive consequences that may result from violation of these directions. 18. We direct the teams of the State Pollution Control Boards, DPCC and CPCB to examine the impact of industries or individual involved in pottery and ceramic industries in the NCR of Delhi and the remedial measures that are required to be taken. 19. We also direct to the DPCC, Pollution Control Boards to inform the Tribunal if they have taken steps for registration of the plastic recycling in accordance with law or not. List these matters on 01st May, 2015 at the end of the Board. ,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 :

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, 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
 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
 Ms. Deep Shikha Bharati, Adv. for MoEF
 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.
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini Yadav Adv. for State of West Bengal
 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
 Mr. D. Rajeshwar Rao, Adv.
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajneesh Bhardwaj and Mr. Raj Kishan Gaur, Adv.
 Mr. Rajneesh Bhardwa Mr. Rahul Sharma and Mr. Gaurav Dubey advs
 Mr. Arjun Syal, Mr. Shreyan Das Adv.
 Mr. Rajkumar, Adv with Mr. Bhupender Ms.Preeti, L.A for CPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 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
 Mr. Rakesh Sharma Mr. V. Mowli, Adv. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas, Adv. for State of Tripura
 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
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Lalit Mohan, Adv. for Delhi Development Authority
 Mr. Arjun Sawhney adv in M. a. No. 1435/2017
 Ms. S. Ghosh, Adv., Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Adv.
 Mr. Apurva Kumar 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, and Ms. Prity, Adv. 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. Gautam singh and Ms.. Shibani Ghosh advs.
 Mr. Nishe Rajen Shonker and Ms. Anu K. Joy, Advs. 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 Adv. and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
 Mr. Dileep Poolakkot, Adv.
 Mrs. Rani Chibber and Ms. Priyanka Sony, Advs.
 Mr. Jogy Scaria, Adv., Ms. Beena Victor, Ms. Mrianda Solaman Advs. for Kerala State Pollution Control Board
 Ms. Sumedha Dang, Adv.
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoinethiam Advs. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam and State of Uttar Pradesh
 Mr. Shivam Bajaj Adv.
 Ms. Aditi Singh Adv. for Narender Pal Singh Adv and Mr. Dinesh Jindel LO
 Dr. Sanjay Kulshreshtha, Applicant in person
 Mr. Rishabh Sharma, Advs.
 Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
 Mr. Gautam Singh and Mr. Soheab Alam, Advs. for State of Bihar
 Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. R.K. Maurya, Mr. Ravi Gopal Advs. for East Delhi Municipal Corporation
 Mr. Shubham Bhalla, Adv.
 Mr. Pragyan Pradip Sharma, Adv Ms. Nitesh , Advs.
 Mr. S.M. Sharma and Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
 Mr. Kamaljeet Singh AAG
 Mr. Nagiender Benipal, Adv
 Ms. Yogmaya Agnihotri, Adv., Ms. Prity, Adv.
 Dr. Abhishek Atrey, Adv.
 Ms. Priyanka Ghorawat, Adv.
 Ms. Shashi Juneja Adv.
 Mr. A.R. Takkar, with Mr. Amarjeet & Ms. Shriya Takkar, Advs. for Ambica Steel Ltd.
 Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & Mr. 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 Mr. Bhupendra Kumar, LA and Mr. Kamal Bandhu, ALO
 Ms. Puja Kalra, Adv.
 Mr. Ankur Chhibber and Mr. Nitish Negi, Advs.
 Mr. Kamaljeet Singh, AAG
 Mr. Udaibir Singh Kochar Adv
 Mr. Gautam Dhamija, Adv.
 Mr. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr. Nawani, Assistand Engineer
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur, 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.
 Mr. Sanchar Anand and Mr. Apoorv Singhal, Advs.
 Mr. Jitendra Kumar Tripathi and Mr. simar Pal, Advs.
 Mr. Shibashish Mishra and Mr. sylona Mohapatra, Advs.
 Ms. Kritika Sachdeva and Ms. Somya Rathore, Advs.
 Mr. Naginder Benipal, Adv. for PPCB
 Mr. Pinaki Misra and Mr. Mayank Das, Advs. for NBCC
 Ms. Shyel T. and Mr. Rishabh Sharma,. Advs.
 Mr. Manoj Kumar Das adv.
 Ms. Sugandama Batra, Adv.
 Mr. Arun K. Sinha, Advs.

Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.
Mr. M. Paikaray and Mr. S. Panda and Mr. A. K. Panda, Advs.
Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
Mr. Arun Monga and Ms. Divya Sharma, Advs.
Mr. Roshmani KH, Mr. Sapam Biswajit , Adv.
Mr. Ajit Sharma and Mr. Adnan Siddiqui, Advs.
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

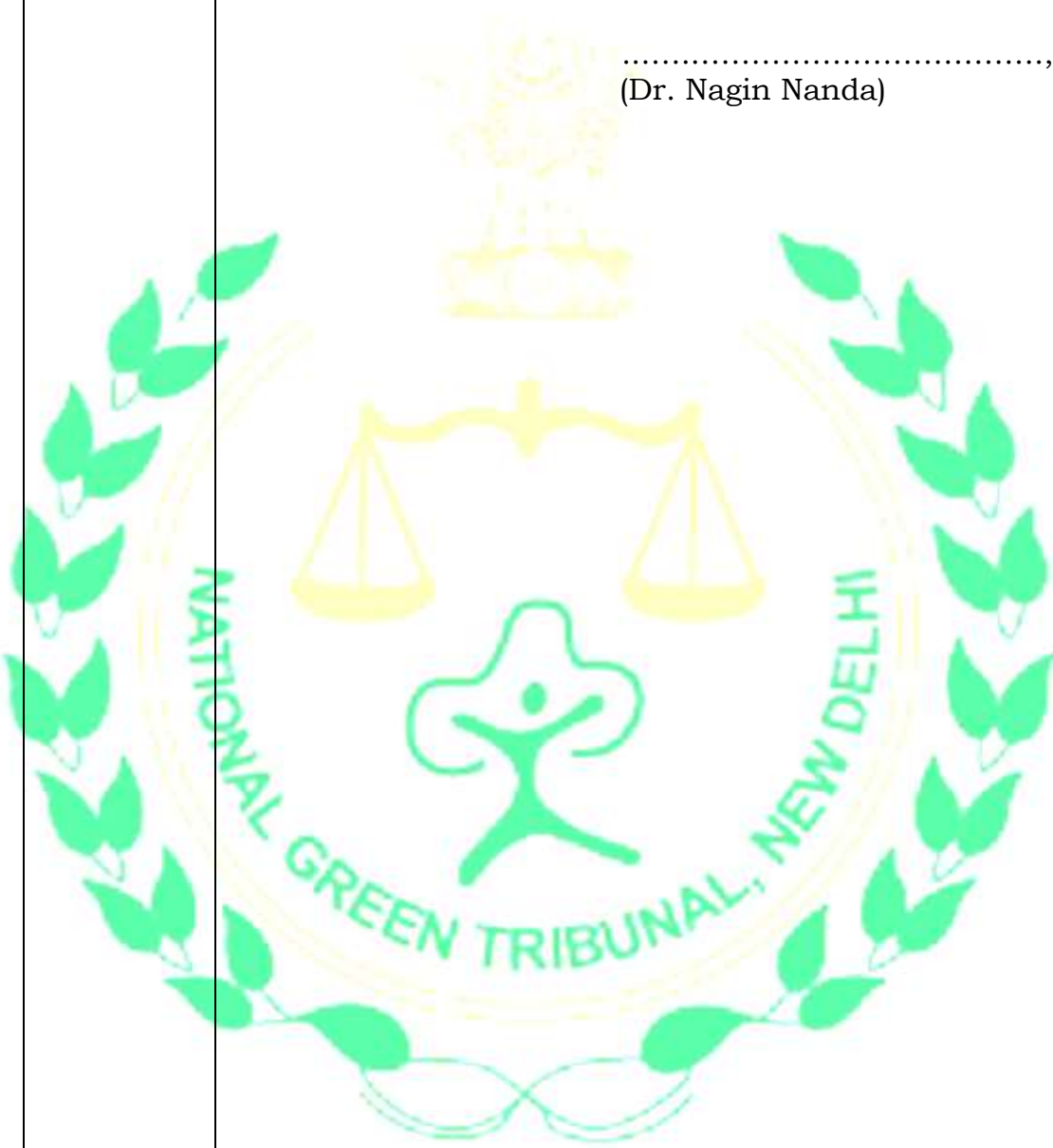
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental 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., 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 Nos. 01 to 03

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 117/2014

WITH

Original Application No. 499/2014

WITH

Original Application No. 102/2014

(M.A. No. 858/2014, M.A. No.872/2014, 42/2015, 287/2015,
694/2015 & 580/2016)

Shantanu Sharma

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

Anupam Raghav & Anr.

Applicant(s)

Versus

U.O.I. & Ors.

Respondent(s)

WITH

Sandplast (India) Ltd. & Ors.

Applicant(s)

Versus

MoEF & Ors.

Respondent(s)

Date of hearing: 20.11.2018

CORAM :

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

For Applicant(s): Tasneema Ahmadi & Mahima Rathi, Advocates

For Respondent (s): Krishna Kumar Singh, Advocate for MoEF & CC
Edward Belho, K Michael, Hoinethiam,
Leishangtham Roshmani, Maibam Babina,
Anupama Ngangom, Advocates for State of
Nagaland
K. Enatoli Sema, Advocate for Nagaland PCB
Arun Mathur, Avneesh Arputham, Anuradha
Arputham & Geetanjali, Advocates for State of
Sikkim
G.M. Kawoosa, Advocate for State of J&K
Balendu shekhar & Sriansh Prakash, Advocates
V.K. Shukla, Ms. Vijay Laxmi, Advocates for
State of M.P.
Rajul Srivastav, Advocate for MPPCB
Rahul Verma, Addl. AG for State of U.K.
Ankit Verma, Advocate for State of U.K.
Deepak Anand, Advocate
Jayesh Gaurav, Advocate for JSPCB
Jogy Scaria, Reagan S. Bel, Advocates for KSPCB
Abhishek Paruthi, Advocate for CPCB
Mr. R. Rakesh Sharma, Advocate for TNPCB

Mr. Shubham Bhalla, Advocate
 Roopam Rai, Advocate
 Hemantika Wahi, Puja Siingh, Advocates for
 State of Gujrat & GPCB
 K.V. Jagdishvaran & G. Indira, Advocates
 Tayenjam Singh, Advocate for MPCB
 Aprajita Mukherjee & Upendra Mishra,
 Advocates for State of Meghalaya
 Dhruv Pal & Himanshu Pal, Advocates for GPCB
 Nishe Rajen Shonker, Anu K. Joy & Alim Anvar,
 Advocates for State of Kerala
 Ardhendhumauli Kr. Prasad , Advocate for
 CGSC/MOC and Mr. Shashank Saxena,
 Advocate for CGSC/MOC
 Debojit Borkakati, Advocate for State of Assam
 Rajul Shrivastav, Advocate for State of MPPCB
 Shuvodeep Roy & Rituraj Biswas, Advocates for
 State of Tripura
 Anil Srivastav & Sujaya Bardhan, Advocates for
 State of Arunachal Pradesh
 M. Paikaray, Advocate for State of SPCB
 Devraj Ashok, Advocate for State of Karnataka
 Raja Chatterjee, Piyush Sachdev & Abhinandini
 Yadav, Advocates for State of West Bengal
 Anand Verma, S. Jain & S. Singh, Advocates
 Ajit Puduserry & Ajeet Singh Verma, Advocates
 Bharat Sangal & Isha Gupta, Advocates
 M. Paikroy, Advocate for state of SPCB
 Puja Kalra, Advocate for North & South, MCD
 Shashi Juneja, Advocate for State of
 Chhattisgarh
 Dhananjaj Bajjal & Nikhil Naggar, Advocates for
 AACB & TSPCB
 Kshitij Mudgal, Advocate for DGMS
 Hemantika Wahi & Puja Singh, Advocates for
 State of GPCB
 Soumyajit Pani & Chittaranjan Singh, Advocates
 for state of Odisha
 Santosh Kumar & Sarthak Agarwal, Advocates
 for SAIL
 Guntur Prabhakar, Guntur Pramod, Prashant
 Mathur, P. Venkat Reddy & Prashant Tyagi,
 Advocates for State of A.P
 Prashant Tyagi, Advocate for State of Talangana
 Tayenjam Momo Singh, Advocate
 Mr. Dhruv Pal & Himanshu Pal, Advocates for
 GPCB
 Atul Jha, Advocate
 Sandeep Mahapatra, Advocate
 Somesh Tiwari, Advocate for Jindal Stainless Ltd.
 Jayant K Sud, Senior Advocate with Ranjith
 Kumar, Advocate
 K. Mudgal, Advocate
 Yogmaya Agnihotri, Advocate for CECB
 Shubham Bhalla, Roopam Rai, Advocate
 Pankaj Kr. Mishra & Ajit S. Bhasme, Advocates
 Ravin Dubey, Advocate
 Debovishi Bhuyan alongwith Mishal Vij,
 Advocate for State of Goa
 Priyanka Sinha & Alok K Singh, Advocates for
 State of Jharkhand
 Abhishek Gupta, Win Koul & Ayush Kr.
 Shrivastava, Advocates
 Debarshi Bhadra, Advocate for NBCC Ltd.

Nishant Talwar, Advocate for State of Punjab
 Daleep Dhyani, Advocate for UPPCB
 Mukesh Verma, Advocate
 Amit Tiwari, Advocate for State of UP
 Jayesh Gaurav, Advocate for JSPCB
 Rahul Khurana, Mishal Vij, Proxy Counsel for
 Anil Grover, AAG for State of HSPCB
 Mr. Shoeab, Gautam Singh & Rudreshwar Singh,
 Advocates for BSPCB
 Debarshi Bhiyan, Advocate for GSPCB

ORDER

1. These matters raise concern of management of fly ash generated by the Thermal Power Plants (TPP). We may refer to the pleadings in Original Application No. 117/2014, Shantanu Sharma Vs. Union of India & Ors. Other matters are said to be identical.
2. The applicant claims to be interested in protection of environment and forest. He claims to be aggrieved by non-implementation of Notifications issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC) for proper utilization of fly ash generated by the coal and lignite based TPP.
3. Case of the applicant is that non-utilization and improper disposal of fly ash leads to increase in air pollution and causes severe health problems. It also affects horticulture and agricultural crops. As at present, there are increased ash pond areas and increased height of ash dykes. Apart from air pollution, there is pollution of surface water and ground water. Major pollutants in fly ash are Arsenic and Mercury. Both the said pollutants are injurious for the land and the water bodies. Thus, there is need for 100% utilization of fly ash by all possible means such as conversion to ash based products, preventing its washing away or flying in the air. MoEF&CC has failed to ensure proper monitoring mechanism inspite of issuing notification on the subject.
4. Notification dated 14.09.1999 required use of atleast 25% of the ash for clay bricks or tiles or blocks for use in construction

activities. The Delhi High Court vide judgment dated 05.08.2004 in Writ Petition (C) No. 2145/1999 directed the Government to make use of fly ash mandatory in roads apart from using it in bricks for construction. Land, electricity and water is required to be made available for promoting ash based production units. Vide amendment dated 03.11.2009, provision was made for its use in manufacturing of building material and in construction activity to preserve top soil by restricting excavation for disposal. Since quantum of fly ash has increased, the extent of fly ash required to be used was also increased.

5. In view of more and more concern on account of failure of efficacy of the measures already taken, a working group was constituted by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Govt. of India. In its report submitted in the year 2011, the said group *inter-alia* observed that increase in generation of fly ash led to increase in the requirement of land and thus target has to be of 100% utilization as against 60% utilization which was happening. The disposal process lacked transparency and it was necessary that each thermal power plant displays complete information. Other measures adopted include policy of financial institutions to require compliance of fly ash as a condition for grant of loan and incentives in rate of excise duty. The applicant has also referred to the report jointly published by the World Bank and the Department of Economic Affairs, Govt. of India pointing out the deficiencies in pro-active government policies on the subject.

6. We may now refer to the Notifications on the subject. Vide Notification dated 14.09.1999, the MoEF&CC issued directions requiring manufacturers of clay bricks or tiles or blocks or construction activities to mix atleast 25% of ash which is to be ensured by the Pollution Control Boards/Committees by

canceling the consent order for brick kilns or mining leases. Every thermal power plant was required to make available such ash and phase out dumping and disposal in three years to the extent of 30%, and in six years the remaining. This applied to plants permissioned subject to Environmental Clearance having such conditions. The remaining are required to phase-out the same in 15 years and compliance was required to be furnished to the Central Pollution Control Board and the concerned State Pollution Control Boards/Committees. The Electricity Boards, NTPC and the management of the power plants are to facilitate making available land, electricity and water for manufacturing activities and also to provide access to the ash lifting area and furnish annual implementation report. Manufacturers of ash based products such as cement, blocks, brick panels were to operate as per the guidelines laid down by the Bureau of Indian Standards, Indian Bureau of Mines, Indian Road Congress, Central Building Research Institute, Roorkee, Central Road Research Institute, New Delhi, Building Materials and Technology Promotion Council, New Delhi, Central Public Works Department, State Public Works Departments and other Central and State Government agencies. The said authorities are to prescribe the use of ash and ash based products in schedules of specifications. Local authorities are to specify such requirement in building bye-laws.

7. Vide Notification dated 27.08.2003, certain amendments were made particularly to the effect that construction agencies were required to use the fly ash to the extent of 100% in a phased manner upto 31.08.2007.
8. Next Notification is dated 03.11.2009, revising the timelines and the period for implementation. The revised timelines apply to the construction agencies as well as thermal power plants as per

details mentioned in the said Notification. The said Notification also provided for shifting of the fly ash by filling empty mined voids by stowing.

9. The report of the Working Group of Cement Industries for 12th Five Year Plan (2012-2017) by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry goes into the extent of the problems and challenges in tackling the issue. The report shows that if the fly ash generated is not consumed, the cost on the economy by way of disposal risks and threat to health will be very high. Thus, to conserve top soil and prevent dumping and disposal on land, proper disposal of fly ash was significant. It was recommended that the Ministry of Power, Govt. of India should make proper assessment of the level of fly ash generation. The fly ash need not be required to be supplied free by the cement manufacturers to small bricks manufacturers and should be utilized by the cement plants for their own consumption. If the cement plants are required to purchase the fly ash at a cost, it will require transportation and add to the cost unnecessarily.

10. We now note the stand of the respondents. The Ministry of Finance and Revenue, Govt. of India in its reply has stated that the excise duty is 2% without CENVAT credit and 6% with CENVAT credit. Fly ash products are covered by SSI exemption. No excise duty is payable upto a clearance value of Rs. 1.5 crores.

11. The Reserve Bank of India has stated that the Banks have been advised to have an appropriate policy in this regard in the matter of giving loans.

12. The MoEF&CC has referred to the Notifications issued from time to time to deal with the problem. In respect of thermal power

stations in its operation before 03.11.2009, extent of fly ash utilizations is as per following table:

Sr. No.	Percentage Utilization of Fly Ash	Target Date
1.	At least generation 50% of fly ash	One year from the date of issue of this notification.
2.	At least generation 60% of fly ash	Two years from the date of issue of this notification.
3.	At least generation 75% of fly ash	Three years from the date of issue of this notification
4.	At least generation 90% of fly ash	Four years from the date of issue of this notification
5.	At least generation 100% of fly ash	Five years from the date of issue of this notification

13. For those commissioned thereafter, the extent of fly ash utilization is as follows:

Sr. No.	Percentage Utilization of Fly Ash	Target Date
1.	At least generation 50% of fly ash	One year from the date of issue of commissioning.
2.	At least generation 70% of fly ash	Two years from the date of issue of commissioning.
3.	At least generation 90% of fly ash	Three years from the date of issue of commissioning.
4.	At least generation 100% of fly ash	Four years from the date of issue of commissioning.

14. Conditions prescribed for utilization of fly ash are as follows:

- “(a) the pond ash should be made available free of cost on "as is where is basis" to manufacturers of bricks, blocks or tiles including clay fly ash product manufacturing unit(s), farmers, the Central and the State road construction agencies, Public Works Department, and to agencies engaged in backfilling or stowing of mines.*
- (b) at least 20% of dry ESP fly ash shall be made available free of cost to units manufacturing fly ash or clay-fly ash bricks, blocks and tiles on a priority basis over other users and if the demand from such agencies falls short of 20% of quantity, the balance quantity can be sold or disposed of by the power station as may be possible;*
- Provided that the fly ash obtained from the thermal power station should be utilized only for the purpose for which it was obtained from the thermal power station or plant failing which no fly ash shall be made available to the defaulting users.”*

15. Under the above notification, a Monitoring Committee is to be constituted in every State/Union Territory under the Chairmanship of the Secretary, Department of Environment with representatives from Department of Power, Department of Mining, Road and Building Construction Department and State Pollution Control Board. The Committee is required to deal with

any unresolved issue by Dispute Settlement Committee in addition to the monitoring and facilitating the implementation of the notification.

16. Monitoring Committee constituted by the MoEF&CC is to have members from Ministry of Coal., Ministry of Power., Central Pollution Control Board., Central Electricity Authority., Head, Fly Ash Unit of the Department of Science and Technology and Building Material Technology Promotion Council.

17. It is further stated, in the affidavit of the MoEF&CC, that as per the information received from Central Electricity Authority (CEA), during a meeting, the fly ash generation from 138 thermal power plants is reported to be 163.56 million tons during the year 2012-13. The overall utilization of fly ash was 100.73 million ton, which is about 61.37% of the total fly ash generated. During the year 2012-13, out of 138 (one hundred thirty-eight) thermal power stations for which data was received, 66 (sixty-six) power stations have achieved the targets of fly ash utilization as stipulated in the notification dated 03.11.2009. The remaining 33 (thirty-three) plants have achieved the level of fly ash utilization up to 75%. The 19 (nineteen) plants have achieved the level of fly ash utilization up to 60%.

18. CPCB has given a chart showing progress of fly ash generation and utilization from 1996 to 2012. Some of the State Pollution Control Boards/Committees have filed their affidavits indicating the extents to which utilization of fly ash has taken place.

19. Vide Notification dated 25.01.2016, further amendment was made to the Notification dated 14.09.1999 mainly to the effect that the area within which the fly ash is to be utilized has been increased to 300 kms. The time period to comply with the requirements of 100% utilization of fly ash was extended to 31.12.2017.

20. The matter has been considered on several dates in the last four and a half years. Reference may be made to some of the orders passed.

21. Vide order dated 06.01.2016, the MoEF&CC, the State Governments/Union Territories were required to furnish the details of the Monitoring Committees and if such Committees were not constituted as per the mandate of the Notification, the same were directed to be constituted.

22. On 03.01.2018, the States/Union Territories were directed to furnish their action plans for utilization of fly ash produced and generated by thermal power plants in accordance with the Notifications.

23. On 16.02.2018, it was noted that only eight States have submitted their action plans. MoEF&CC was directed to expedite the collection of action plans from the concerned States.

24. On 20.03.2018, the Chief Secretaries of the States, who had failed to submit action plans, were again required to do so.

25. On 12.07.2018, it was stated that 20 States have submitted their action plans out of which 13 were not complete or satisfactory. The MoEF&CC was directed to monitor the compliance of the earlier orders referred to above and submit a status report.

26. Accordingly, status report has been filed before this Tribunal on 07.09.2018 by the MoEF&CC stating that no fly ash is generated in 15 States/UTs namely Goa, Himachal Pradesh, Jammu & Kashmir, Kerala, Manipur, Mizoram, Nagaland, Sikkim, Tripura, Andaman and Nicobar, Chandigarh, Daman & Diu, Dadra & Nagar Haveli, Lakshadweep and Pondicherry. Accordingly, the said States and Union Territories and their authorities be deleted from the array of parties.

27. Twenty States have given their action plans. Only State of Arunachal Pradesh has not furnished any action plan. Since there is nothing to show that there is any fly ash generation in the said

State, the said State or its authorities are also deleted from array of parties. We do not understand why deletion of unnecessary parties was never sought.

28. The position of each of the remaining twenty States has been mentioned. It may be noted that though the last date for achieving 100% utilization was 31.12.2017 and the said date has not been extended, the States have sought extension of time by 2 to 5 years upto the year 2023 which is wholly uncalled for. This Tribunal has no jurisdiction to grant any extension of time in conflict with the mandate of notification under the Environment (Protection) Act, 1986, particularly when such extension will enable harm to environment, in violation of statutory scheme. It is also stated by some of the States that action plans to achieve 100% utilization of fly ash has not even been furnished by some of the Thermal Power Plants.

29. We may also note that the NITI Aayog, vide order dated 12.06.2018, constituted a Committee headed by Joint Secretary, MoEF&CC, Govt. of India, to develop a focused strategy for best utilization of fly ash to manufacture end products. Issues to be gone into by the Committee are:- revisiting existing notifications / guidelines, transportation of fly ash, better utilization in MSME Sector, cement and allied industries, use of mobile app in data base, guidelines for ash parks, regulation of red bricks, incentives for 100% utilization, incentives to TPPs for new innovations. Draft report was circulated by MoEF&CC on 16.10.2018. The Committee noted that the existing notification needed review and the same were not being fully implemented.

30. In view of the above, only question for consideration is the directions to be issued on account of failure of 100% utilization of fly ash which has admitted adverse impact on public health and to give effect to the 'Precautionary Principle' and the 'Polluter Pays'

Principle to be applied under Section 20 the National Green Tribunal Act, 2010.

31. Since non-utilization of 100% fly ash, especially after 31.12.2017, the date fixed in the Notification of the MoEF&CC dated 25.01.2016, invites penal consequences under the provisions of the Environment Protection Act, 1986, liability in this regard is not only of the persons responsible for non-utilization but also for generators of the fly ash. The generator cannot avoid responsibility for due disposal of any residue pollutants on account of its activity. The principle of 'extended producer's liability' is well recognized as part of 'Sustainable Development'. Applying the 'Precautionary Principle', the permission to dump fly ash in the mined voids has to be subject to all precautionary measures necessary for environment protection. Area of utilization of fly ash has been extended to 300 kms, which may call for more stringent conditions to avoid damage to the environment.
32. The adverse effect of fly ash mismanagement is well acknowledged in decision of Courts¹ as well as by public authorities².
33. We are of the view that a Joint Committee of the representatives of the Ministry of Environment, Forest and Climate Change, Central Pollution Control Board and IIT Roorkee and any other member considered necessary by MoEF&CC needs to be forthwith constituted to finalize action plan covering all aspects so as to not only achieve 100% utilization of fly ash but also to ensure its scientific and environmentally sound disposal. The Committee will also be required to determine the amount of damages to be paid for the violation of requirement of utilization of fly ash. Needless to say that statutory authorities under the Environment

¹ Occupational Health and Safety Association v. Union of India & Ors. (2004) 3 SCC 547 ¶12-15

² <http://pib.nic.in/PressReleaseDetail.aspx?PRID=1520080>, <https://economictimes.indiatimes.com/news/politics-and-nation/pmo-asks-agencies-to-increase-usage-of-fly-ash-by-10-times/articleshow/65814656.cms>, <https://energy.economictimes.indiatimes.com/news/power/from-coal-production-to-renewable-power-obligations-niti-aayog-lays-down-its-3-year-agenda-for-indias-energy-sector/58486230>, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=179785>

(Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 are entitled to assess and recover damages on 'Polluter Pay's Principle' in exercise of incidental powers to protect environment. The Committee may determine any other allied or incidental issue.

34. Accordingly, we direct constitution of such a Committee by the MoEF&CC forthwith. The Committee may give its report within two months from the date of its assuming charge to the MoEF&CC.

35. The report of the Committee may be complied with by all concerned, subject to any challenge to such report, in accordance with law.

36. Pending submissions of such report, we direct all Thermal Power Stations who have failed to dispose of 100% fly ash up to 31.12.2017, to deposit damages for environment restoration as follows:

Sl. No.	Capacity of the Thermal Power Plant	Cost of damages
1.	Thermal Power Plants upto the capacity of 500 MW	Rs. 1 Crore
2.	Thermal Power Plants upto the capacity of 1000 MW	Rs. 3 Crores
3.	Thermal Power Plants beyond the capacity of 1000 MW	Rs. 5 Crores

37. The above amount may be deposited with the CPCB within one month from today, failing which interest @ 12% p.a. will be payable for the delayed period. The amount may be spent on restoration and restitution of the environment.

38. No damages will be payable by the Thermal Power Plants which have utilized 100% of the ash generated by it in accordance with law up to 31.12.2017 and disposing it in scientific manner. In case, any such claim is found to be false by the Committee, the amount of penalty payable may be up to five times.

39. The MoEF&CC may furnish an action taken report to this Tribunal on or before 31.03.2019 by e-mail at ngt.filing@gmail.com. All the applications are disposed of.

40. Report may be put up for consideration on 9th April, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

November 20, 2018
dv



Item No. 01 & 02

Court No. 1

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

Original Application No. 164/2018
(Earlier O.A.No.276/2013)

WITH

Execution Application No. 22/2018
IN

O. A. No. 276/2013

(With report dated 29.10.2019)

Ashwani Kumar Dubey

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 05.11.2019

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
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant (s):

Mr. Pankaj Sharma, Advocate

For Respondent(s):

Ms. Vidushi Garg, Advocate for R-10 to 12
Dr. Ashwani Bhardwaj with Kavita Rawat,
Advocates for R-33&35

Mr. Anip Sachthey, Senior Advocate with Ria
Sachthey, Advocate for R-36

Mr. Rajkumar, Advocate for CPCB

Mr. Daleep Dhyani, Advocate for UPPCB

Mr. Pradeep Misra, Advocate for R-19&20

Mr. Rajat Jariwal, Advocate for Grasim
Industries.

Mr. Gaurav Dudeja, Advocate for Lanco Anpara

Ms. Deep Shikha Bharati, Advocate for State of
UP

ORDER

1. Issue for consideration is remedial action against pollution and violation of environmental norms by Thermal Power Stations operating in Singrauli and Sonebhadra Districts of Madhya Pradesh

and Uttar Pradesh resulting *inter-alia* in air pollution, water contamination and large scale of damage to public health.

2. Vide order dated 24.05.2016, this Tribunal sought a factual and action taken report from a joint Committee comprising of the Ministry of Environment, Forest and Climate Change (MoEF&CC), the Central Pollution Control Board (CPCB), the Uttar Pradesh Pollution Control Board (UPPCB) and the Madhya Pradesh Pollution Control Board (MPPCB) with reference to the allegation that Thermal Power Stations operating in the Districts of Singrauli and Sonebhadra in the States of Madhya Pradesh and Uttar Pradesh being Northern Coalfields Limited Singrauli, Northern Coalfields Limited Kakri Project, Post Kakri, District-Sonebhadra, Uttar Pradesh, Northern Coalfields Limited Bina Project Post Bina District Sonebhadra, Northern Coalfields Limited Krishna Shila Project, Northern Coalfields Limited Kadia Project, Post Khadia District Sonebhadra, Northern Coalfields Limited, Dudhichuwa Project, Post Khadia District-Sonebhadra, UP were causing damage to the environment. The violation of environmental norms was resulting in damage to water bodies, including Rihand Reservoir. Surface and underground water was polluted affecting rivers like Son, Renu, Bijul, Kanhar, Gopad, Pankagan, Kathauta Kachan, etc. and streams/nalas like Ballia Nala, Chatka Nala, Kahuwa Nala, Tippa Jharia, Dongia Nala, etc. Water had been contaminated by toxic effluents discharged, chemicals and fly ash and was not fit for consumption.
3. The Tribunal after considering the report vide order dated 28.08.2018, constituted a Committee headed by Justice Rajesh Kumar a former Judge of the Allahabad High Court to prepare a time

bound action plan to deal with the problem and to monitor its implementation and send reports of the action taken by it to this Tribunal.

4. The Tribunal dealt with the report of Justice Rajesh Kumar Committee dated 14.12.2018 vide order dated 03.01.2019. The report, *inter-alia*, mentioned lack of proper management of ash ponds, disposal of red mud and steps necessary for control of air and water pollution. The Tribunal directed the concerned State Pollution Control Boards (SPCBs) and the Central Pollution Control Board (CPCB) to take remedial measures and furnish a status report about the ambient air quality, water quality of the reservoir and other water bodies to the Oversight Committee. The States were also to give their reports about the health status of the citizens in the affected areas and to prepare plan for providing potable water through pipelines in a time bound manner.
5. Second report of Justice Rajesh Kumar dated 28.06.2019 was considered on 19.07.2019. The report suggested ban on manufacture of red bricks by use of clay/soil and burning coal so that more fly ash could be utilized. This aspect was directed to be looked into by the MoEF&CC and the CPCB. The Committee was to give further report setting out recommendations cumulatively at one place. The Tribunal also directed compliance of observations of the CPCB with regard to operation of STP, establishment of piezometers and remote calibration as well as other deficiencies forthwith which was to be overseen by the CPCB. CPCB was to assess compensation for the damage to the environment.

6. Reports dated 21.08.2019 and 23.08.2019 were filed by the MPPCB and UPPCB. In O.A. No. 453/2019, a direction was sought for implementation of the said reports on the issue of environmental compensation in respect of 11 units in the State of Madhya Pradesh and 10 units in the State of Uttar Pradesh. The Tribunal directed the SPCBs to proceed in accordance with law to recover the compensation assessed.
7. The matter has been put up today mainly for consideration of the report filed on 29.10.2019 by Justice Rajesh Kumar dealing with the issue of management of fly ash by thermal power stations and the damage caused to Rihand reservoir which is a source of water for operation of thermal power plants and other industries and also for drinking purposes by the inhabitants. The Committee observed that the capacity of the reservoir was reduced due to draining of effluents and fly ash which required desilting. Fly ash dykes of Essar Power was breached on 07.08.2019 and of NTPC on 06.10.2019. Slurry was flowing on the ground causing damage to the crops. Slurry also travelled upto Rihand reservoir. This gave rise to emergent situation. The Committee held a meeting. The Committee prepared its agenda on the subject as follows:

"Generation and storage of Fly-ash in Thermal Power Plants is becoming a great cause of concern affecting the environment. Due to the regular storage of Fly-ash in Fly-ash Dykes since long, affecting air pollution, has led the Ministry of Environment, Forest and Climate Change, Government of India to declare the Sonbhadra and Singrauli area as a most critically polluted area. No proper roadmap has been presented for its proper disposal by the Thermal Power Plants.

It has been noticed that in recent times there had been breach of Ash Dykes of two Thermal Power Plants in Singrauli district of Madhya Pradesh, which has resulted in discharge of Ash slurry to the river as well as to Rihand

Reservoir adversely affecting their water quality. These Ash Dyke pertains to Thermal Power Plants (TPPs) namely M/s Essar Power Ltd and NTPC, Vindhya Nagar. These incidences are of serious concern and indicate improper and non-scientific design of Ash Dykes. The Oversight Committee constituted by Hon'ble NGT has taken this matter very seriously and also discussed in the previous meeting. In this regard a meeting of the Committee is convened on October 22, 2019 at 11:00 AM in Circuit House at Prayagraj to discuss various issues related to handling of Ash and their disposal. The agenda of the meeting is as below: -

All Thermal Power Plants have to talk about the structural design of their Ash Dykes to prove that their Ash Dykes are proper and scientifically designed.

1. To discuss with all the Thermal Power Plants about structural details of their Ash Dykes and their adequacy for handling of Fly Ash generated. Whether submitted the details of ash dykes to SPCBs and taken permissions from SPCBs.
2. All Thermal Power Plants have to talk about the structural design of their Ash Dykes to prove that their Ash Dykes are proper and scientifically designed.
Submission of affidavit by TPPs in compliance of decisions taken in the last meeting of Committee regarding adequacy of Fly Ash Dyke. The status will also be shared about the action taken by TPPs for third party assessment of Ash Dyke of their plants through expert institutions like NEERVIITs.
4. Thermal Power Plants may submit their roadmap for the future disposal of the stored Fly-Ash as well as the currently generated Fly-Ash.
5. What effort has been made to fill up the Fly-Ash in the abandoned Coal Mines and Stone Mines? Whether any letter has been written to the Mine-owners or to the concerned Authority in this regard, seeking permission in light of the discussion in the earlier meeting(s)?
6. To provide opinion about option of developing mounds of Ash Dyke as done by NTPC Thermal Power Plant, Dadri, where green cover has been developed by covering it with the top soil.
7. Submission of status by NTPC Vindhya Nagar about necessary clearance from Madhya Pradesh Pollution Control Board about Gorbi mines and disposal of Fly Ash.
8. Preparation of DPR for project of desilting the Rihand Reservoir and bearing of such expenditure by Thermal Power Plants of the area on polluter pay principle.

All the Thermal Power Plants situated in the State of U.P. and M.P., Members of the Committee, District Magistrate of concerned districts may be informed to attend the meeting with relevant information as per Agenda."

8. The deliberations of the Committee have been summed up as under:

“Thermal Power Plants — Ash Utilization:

NTPC-Vindhyanagar: Shri V.K. Maurya, Deputy General Manager (Civil_Design) NTPC, New Delhi along with Shri Debashis Sen, Executive Director (Vindhyanagar) states that they could not comply the direction given by the Committee in the earlier meeting and could not submit the affidavit till today. They could not file any reply to the points raised in the Agenda of notice. However, Shri V.K. Maurya tried to explain that their Fly Ash Dyke was constructed in accordance to the norms and time to time, when the height of the Dyke was raised, the technical advices were also taken from the experts. However, no evidence in this regard has been produced before us. Despite asking from us that whether they have brought any reply to the points detailed in the agenda, Mr. Jain another officer states that they have everything. The periodical inspection has been made by the various internal department officers but he admitted that no assessment or report by third party agency has been obtained with regard to Fly Ash Dyke. Prima facie, the Committee is off the view that the officers of the NTPC are still not serious. They have not complied with the direction given by the Committee in the earlier meeting. The affidavit has not been filed. Recently, we came to know that there was a breach of Fly Ash Dyke on 06.10.2019 due to which huge quantity of fly ash slurry travelled alongwith the ground causing damage to crops and the fly ash travelled up to the Rihand Reservoir. If as per the version of Mr. Jain and Mr. Maurya everything was perfectly all right and time to time dykes have been checked why this incident happened. The incident itself shows that there was some deficiency in the construction of Fly Ash Dyke. The whole purpose for asking the affidavit in the earlier meeting was to get their dykes checked properly from the third party experts inasmuch as these dykes were originally constructed much earlier, in the present case in the year 1981. Plant is not able to produce any roadmap for the disposal of the stocked Fly Ash and the currently generated Fly Ash. A continuous process of stocking the Fly Ash is going on, which is causing environmental effect every day. In this view of the matter, the Committee is of the view that the Plant is liable for the compensation/penalty for causing environmental damage every day.

Later on, at the end, they have provided an affidavit. The averments made in the affidavit are vague and casual. The paragraphs are sworn on the 'personal knowledge' and not on the basis of documents. We are not satisfied with the averments made in the affidavit. Sri Jain submitted that some time may be allowed to get the Fly Ash Dyke inspected by the third party agencies. He prays and is allowed one month time to get the Fly Ash Dyke inspected by the third party agencies like IIT or any other agencies, who are experts on the subject. He further submitted that he may be allowed a week's time

thereafter to give the reply of each and every point of the agenda of the meeting.

NTPC Shaktinagar: Shri Debashish Chattopadhyay, Chief General Manager submitted an affidavit in respect of the Fly Ash Dyke. From perusal of the affidavit it appears that the averments are vague and general in nature. The averments are sworn on the basis of personal knowledge and not on the basis of the documents. The Committee is not satisfied with the affidavit. Let the Plant may file a fresh affidavit after getting the report from the third party technical agency. He further submitted that due to the breach of the Fly Ash Dyke of NTPC Vindhyannagar and on account of the heavy pressure, their recycled water pipeline has been damaged resulting overflow of the water from the Dyke. He fairly admitted that some quantity of the over-flown water is going to Rihand Reservoir. He, however, assured that within a week the recycled water pipeline will be repaired and they may also get the technical structural stability report about their Fly Ash Dyke from third party agencies namely IIT etc. He submitted that he will submit the Affidavit within a period of one month giving reply of each and every point raised in the agenda.

NTPC Rihand: Shri Ranjan Kumar, G.M. NTPC Rihand submitted an affidavit. The averments made in the affidavit are vague and casual. The paragraphs are sworn on the 'personal knowledge' and not on the basis of documents. We are not satisfied with the averments made in the affidavit. He states that their Plant has already engaged IIT, Kanpur for the inspection and report in respect of the Fly Ash Dykes. The report may likely be obtained within one month. The Committee is of the view that let one opportunity may be given to the Plant to file a better affidavit along with the documents to demonstrate the action taken by the Plant in this regard and also the report of the third party agency in regard to the structural stability of the Fly Ash Dykes.

Lanco Anpara & U.P. State Power Corporation Ltd.: An affidavit has been submitted by the Anpara Thermal Project, a Unit of U.P. State Power Corporation Ltd. The affidavit is vague and general in nature. In support of the averments in the affidavit, no document has been annexed. There is no report of the third party technical agency. They are directed to give a better and detailed affidavit. It is stated that they have only one Fly Ash Dyke in which their fly ash as well as the fly ash of Lanco are being drained. The maintenance of the said Fly Ash Dyke is the responsibility of the Anpara Thermal Project, U.P. State Power Corporation Ltd. In this way, so far as the construction, stability and maintenance of the Fly Ash Dyke is concerned, Lanco is not responsible. The entire responsibility is upon U.P. State Power Corporation Ltd. The officer of U.P. State Power Corporation Ltd. submitted a report of 2018 wherein the structural stability of the Fly Ash Dyke has been examined. In the said report, it is approved that their Fly Ash Dyke is suitable for further raising of height up to 5 meters. The copy of the said report has been submitted before us. The Committee is of the

view that after raising the height, the Plant may get a further report in respect of structural stability in order to overrule any possibility of technical flaw. Shri A.K. Rai, Executive Engineer states that in the Fly Ash Dyke the rainy water of the catchment area also flows and in such a situation during the rainy season when the Fly Ash Dyke is full of water due to heavy rainfall etc. Sometimes the fly ash along with the water also flows to Rihand Reservoir. The Management of the Plant is very serious about this issue and has asked the District Administration to divert the Nala of the catchment area to somewhere to avoid any flow of fly ash in the Rihand Reservoir. The District Magistrate, Sonbhadra states that the Administration is very serious and taking all possible steps to get the Nala diverted. The work is likely to be completed within two months. Both Lanco and U.P. State Power Corporation Ltd. are directed to furnish their reply by filing a fresh affidavit in regard to each and every point of the agenda of the meeting.

Essar Power: The officers of the Company submitted the affidavit regarding their Fly Ash Dykes. They submitted that 80% of the fly ash which had flown due to the breach of the Fly Ash Dyke have been removed and 20% fly ash lying on the earth shall be removed within a period of one month. They submitted that for the assessment of the environmental damage they have engaged NEERI, Nagpur. The document relating to their engagement has been produced before the Committee. They stated that NEERI has asked for six months time to assess the environmental damage. They further submitted that for the structural stability of the Dyke and making it technically sound they have taken the advices from two professors of the IIT Roorkee, namely, Prof. K.S. Hariprasad and Prof. Narendra K. Samadhia. They have visited the spot. They are likely to give their report within a period of fifteen days. On the basis of their report, they may proceed to reconstruct their Fly Ash Dyke. It has also been informed to the Committee that there was a joint inspection done by the officers of the Central Pollution Control Board and the officers of the M.P. Pollution Control Board and on the inspection the report has been submitted wherein they found that the Plant has removed 80% fly ash and they are in the process of removing the remaining 20% of the fly ash. The Committee directs the Plant to submit the report of the IIT within fifteen days and thereafter also submit the progress report, of the steps being taken to reconstruct the Dyke. On the report being received from NEERI, the environmental compensation shall be assessed. Let the Company may give detailed reply of each and every point of the agenda of the meeting by filing an affidavit within one month.

Shasan Power Ltd.: The representative of the Plant submitted the affidavit. However, the report of the third party agency certifying the structural stability of the Fly Ash Dykes has not been submitted. They have also not submitted the reply of each and every point raised in the agenda. The representative states that they will get the report about the structural stability of the Fly Ash Dykes and give the reply of each and every point raised in the agenda within one month.

Hindalco Industries — Mahan Aluminium Project: The Company is engaged in the manufacturing of Aluminium from Alumina and has a Power Plant of 900 MW capacity. It is submitted that they have 02 Fly Ash Dykes, one dyke has been completely filled to the capacity and the other is being used now. For the purposes of raising height of the Fly Ash Dykes they have engaged the BHU for technical advice and on the basis of the advice they will proceed further in the matter. The Committee is of the view that they may also get the report from the third party agency about the initial structural stability of the two Fly Ash Dykes. The Company has submitted an affidavit. The averments in the affidavit are general in nature. They are also directed to file a fresh affidavit giving reply of each and every point raised in the agenda within one month.

Bajaj Energy: The representative of the Plant stated that they have received copy of the agenda very late. Therefore, they could not collect the necessary documents. They sought time to furnish the details. Let the Plant may submit an affidavit relating to the structural stability of the Fly Ash Dykes and also give the reply of each and every point raised in the agenda, supported by the certificate from third party agency in this regard. They are directed to give the reply of each and every point of the agenda within a period of one month.

M.P. Power Generating Co. Ltd.: There are 04 (four) Units of this Company, namely:-

- (1) ATPS, Chachai, District Anuppur, established in 2007.
- (2) SGTPS, Birsinghpur, District Umariya, established in 2015.
- (3) STPS, Sarni, District Betul — two Plants established in 2013 and 2017.
- (4) SSTPP, Dongalia, District Khandwa, established in 2018.

A consolidated Paper Book has been submitted in respect of all the Units. However, they have not submitted any Affidavit with regard to the Fly Ash Dykes and also the Certificate of the third party agency who are the Technical expert. The officers of the Company pray for one month time to submit the affidavit and the certificate. They have also submitted a roadmap for the disposal of the Fly Ash. A perusal of the roadmap reveals that in comparison to the other Power Plants, their Unit-wise disposal are quite satisfactory.

However, they admit that even after more than 90% disposal, the stock of Fly Ash still remains and they are making efforts to dispose it by negotiating with the Cement Plants and approaching the Government for permission to fill the Fly Ash in the abandoned Mines. It is submitted that they are hopeful to achieve the target shortly. Let the Company may file the affidavit and the certificate in respect of the structural stability of the Fly Ash Dykes within one month.

MB Power (Madhya Pradesh) Ltd.: The Company has submitted a presentation in the form of small paper book. However, they have not submitted any Affidavit with regard to the Fly Ash Dykes and also the Certificate of the third party agency who are Technical expert. The officers of the Company pray for one month time to submit the affidavit and the certificate. The representative of the Company states that their disposal of Fly Ash is at present more than 100% and there is very little stock of Fly Ash lying in the Plant. For the further disposal of Fly Ash, they have approached the Southern Coalfields Ltd., Bilaspur to provide abandoned Mines for the purposes of filling of the Fly Ash. He stated that they are continuously approaching the Southern Coalfields Ltd., Bilaspur but they are not giving any reply. A copy of the letter has also been given to the Ministry of Coal, Govt. of India and also to the Madhya Pradesh Pollution Control Board. Sri Hemant Sharma, Director, MPPCL states that he will look into the matter and do the needful. The Committee further directs the Southern Coalfields Ltd., Bilaspur to look into the request of the Plant and if it is feasible and there is no impediment, they may allow the filling of their Fly Ash in the abandoned Mines. Let the Company may file the affidavit and the certificate in respect of the structural stability of the Fly Ash Dykes within one month.

Obra Thermal Power Plant, Obra: The representative of the Plant submitted an affidavit in pursuance of the direction given by the Committee in the earlier meeting. We have perused the affidavit. The manner in which the affidavit has been submitted is not acceptable. It is, in fact, not an affidavit and nothing has been stated properly, supported by any document, as required by the Committee. Let the Company may file a fresh affidavit stating that their Fly Ash Dykes are structurally stable and there is no possibility of any breach, and also annexing the certificate in respect of the structural stability of the Fly Ash Dykes from a third party technical agency. The representative submitted that the Plant is raising the height of the Fly Ash Dykes after taking the advice from the IIT Roorkee. Committee directs that after the completion of the work, they will further get their Dykes inspected by the third party technical agency, namely, NEERI to get the certificate that the Dyke is fully structurally stable and there is no possibility of any breach. He submitted that although, at present, the Fly Ash Dykes is not operational but the Plant has negotiated with the NHAI and also got allotment of abandoned mines from the concerned Authorities. After getting the N.O.C. from the Department, they will fill the Fly Ash in the abandoned mines. In this way, they will be able to dispose off sufficient quantity of the Fly Ash. Let the Company may file a fresh affidavit, supported by documents, stating their Fly Ash Dykes are structurally stable and technically sound and also submit reply of the issues raised in the agenda within one month.

Prayagraj Thermal Power Plant : The representative states that although they have two Fly Ash Dykes but since their disposal of Fly Ash is at present 100%, there is no occasion to store the Fly Ash. The Plant is not facing any problem with

regard to the Fly Ash Dyke. The Plant is, however, not operating in full capacity due to lack of coal in adequate quantity. Since their disposal of Fly Ash is to the nearby Industries, there may not be much problem of storage of fly ash in the Dykes.

Jaypee Bina Thermal Power Plant: The representative of the Company filed an affidavit. We have perused the affidavit. Let the Company may file a fresh affidavit within one month enclosing the certificate from the third party technical agency that their Fly Ash Dykes are structurally stable and there is no possibility of any breach. They may also submit the reply to each and every point of the agenda in the said affidavit.

Jaypee Nigrie Thermal Power Plant: The representative of the Company states that there is 100% disposal of the Fly Ash. There is no stock of Fly ash in the Dykes. Only bottom ash is filled in the Fly Ash Dykes. At present, there may be about 3.9 Lac MT bottom ash in the dykes. He stated that they have sought permission from the concerned Authority to fill up the old lying Ash for filling up in 04 abandoned Stone mines, which are also leased out to them for the quarry of stone. The total capacity of the mines is about 15 lac MT. On the permission being granted, they will be able to consume the entire stock of the bottom fly ash stored in the Fly Ash Dykes. Let the Company may file a fresh affidavit within one month enclosing the certificate from the third party technical agency that their Fly Ash Dykes are structurally stable and there is no possibility of any breach. They may also submit the reply to each and every point of the agenda in the said affidavit.

NTPC Meja : The representative of the Plant stated that their Plant has been commissioned in the year 2019. After commissioning of the Plant, the production of the Plant has not been properly carried on initially, for the shortage of the coal and at present due to technical fault. The production may likely to start very soon. Therefore, they are not facing any problem relating to the Fly Ash.

NTPC Dadri : The representative of the Plant states that there is no Fly Ash Dyke in their Plant. In the Plant premises, they have developed a huge Fly Ash Mount wherein they are directly sending dried fly ash from the Plant to the Fly Ash Mount through the pipeline. The permissible height of the Fly Ash Mount is 55 Meters. The Fly Ash Mount is full of trees which works as a binding of fly ash and avoids any damage during the rainy season. The creation of the Fly Ash Mount is a continuous process. There is no effect of Fly Ash effluents and affecting any air pollution and environment. On the contrary, due to heavy growth of plantation, which is about 2,00,000, over the Fly Ash Mount, the entire area is full of greenery and creates a better environment.”

9. In view of above, the Committee observed that the fly ash could be managed by developing a fly ash mount. The Committee has made following recommendations:

- “(1) All the Thermal Power Plants are directed to get their Fly Ash Dykes inspected by the third party agencies who are Technical expert to certify that their Fly Ash Dykes are technically sound and structurally sustainable and file an affidavit in this regard along with the certificate of the third party agencies.*
- (2) All the Thermal Power Plants may make a serious effort for 100% disposal of the currently generated Fly Ash and also for the disposal of the stocked Fly Ash.*
- (3) All the Thermal Power Plants may approach the District Administration with the request to allot abandoned mines (stone and coal) to them for the permission to fill the Fly Ash.*
- (4) Generation of Fly ash is a continuous process in all the Thermal Power Plants which is causing pollution of every day - Why the environment compensation on per day basis or month-to-month basis may not be imposed and recovered for the continuous pollution of air and water?*
- (5) There are number of Acts relating to air pollution and water pollution. The concerned authorities are directed to initiate the civil and criminal proceedings against these Thermal Power Plants who are causing air pollution and water pollution every day.*
- (6) U.P. Pollution Control Board under whose jurisdiction the Rihand Reservoir comes is directed to prepare a D.P.R. for de-silting of Rihand Reservoir for its restoration to its original form.*
- (7) All the Thermal Power Plants are being cautioned to take the necessary steps, as directed above, failing which they will be subject to the penalty/ environment compensation.”*

10. We are of the view that the recommendations on the subject of development of fly ash mounts and filling up of abandoned mines are issues which need to be examined by experts with regard to the safeguards necessary in the process, after studying the impact of environment. It is only after such a study that the development of mounts and filling up of abandoned mines can be undertaken. If there are pre-existing guidelines of MoEF&CC/CPCB on the subject, the same may be followed.

11. As regards desilting of Rihand reservoir, the same needs to be undertaken on scientific basis and cost recovered in the manner apportioned by CPCB. Apart from desilting, structural improvement of the dykes needs to be simultaneously taken up. CPCB may ensure that an action plan is prepared by the power plants whose dykes have breached. The issue of developing fly ash mounts and filling up of abandoned mines may also be got examined by the CPCB from its Expert Committee.
12. The CPCB has given report dated 26.09.2019 in response to order dated 19.07.2019. The CPCB has recommended payment of compensation of Rs. 155,42,85,300/- (One hundred fifty five crore forty two lac eighty five thousand three hundred). Since it is pointed out that vide order dated 04.11.2019 the Hon'ble Supreme Court has directed deferment of the proceedings, we defer the proceedings till the matter is decided by the Hon'ble Supreme Court.
13. We have also perused the report filed by the CPCB on 21.08.2019 with regard to compensation to be paid by the Essar Power in pursuance of order dated 19.07.2019. The assessed compensation may be recovered after following the due process of law.
14. We also find a letter from Justice Rajesh Kumar seeking extension of time. The report may be furnished as early as possible preferably by 31.12.2019. The structural steps for restoration of dykes may commence expeditiously, preferably by 31.12.2019 by Essar Power as well as NTPC.
15. The CPCB may give its reports on the subject of development of fly ash mounts and back filling of the abandoned mines and also cost

apportionment for desilting and restoration of Rihand reservoir preferably by 31.12.2019. CPCB will be at liberty to consult/associate any expert/institution for the purpose.

List for further consideration on 18.02.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM



November 05, 2019
Original Application No. 164/2018
(Earlier O.A.No.276/2013)
WITH
Execution Application No. 22/2018
IN O. A. No. 276/2013
DV

Item Nos. 02 & 03

Court No. 1

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

Original Application No. 104/2018
(M.A. No. 279/2018, M.A. No. 858/2018 & I.A. No. 382/2020)
WITH
Execution Application No. 05/2019
(With report dated 17.11.2020)

Shivpal Bhagat & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 20.11.2020

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

Applicant(s): Mr. Saurabh Sharma, Advocate

Respondent(s): Mr. Kush Sharma, Advocate for CPCB

ORDER

1. The issue for consideration is the remedial action against pollution caused by the Thermal Power Plants, the coal washeries in Tamnar and Gharghoda blocks of Raigarh District in Chhattisgarh, including M/s Jindal Power Limited, M/s Jindal Power and Steel Limited, M/s TRN Energy Private Limited, M/s Mahavir Energy & Coal Benefaction Limited, M/s. Hindalco Industries Limited and M/s. Monet Energy Limited, SECL. The operation of the said units is resulting in contamination of air, water and land and having adverse impact on the environment and the habitants. Water and soil have toxic metals having potential for health

hazard requiring monitoring of emissions, making the polluter accountable and regulating the polluting activities.

2. The matter has been considered earlier and under direction of this Tribunal, an Expert Committee furnished its report dated 14.10.2019 after visiting the sites and considering earlier reports on the subject. The Committee considered the mitigation measures required to be adopted by the Thermal Power Plants and the coal washeries. The Committee found that the issue of ground water depletion, soil pollution, forest loss and livelihood loss were required to be addressed for which short term and long terms measures were suggested. The Tribunal directed remedial action for dealing with the deficiencies having potential for damage to the environment. Further direction was to review the existing arrangements and furnishing a further report. The operative part of directions in the order dated 27.02.2020 is as follows:

“3. Accordingly, a report dated 14.10.2019 has been filed by the CPCB on behalf of the Committee on 15.10.2019. The Committee visited various sites and considered the earlier reports, including maps and the data of air quality as well as water pollution. The Committee then considered the mitigation measures prescribed and their current status including installation of Electro-Static Precipitators (ESPs) and Fluidized Gas Desulfurizers (FGDs) in the Thermal Power Plants. The committee also considered ground water depletion, soil pollution, forest loss and livelihood loss and after detailed study of various aspects made following recommendations:

“4. RECOMMENDATIONS:

Based on the above observations, the committee recommends a set of short-term and long-term measures.

4.1 Short-term measures

- a. Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).*
- b. Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly*

ash in low-lying areas by TPP/ CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.

- c. Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing **closed conveyor belts** and no such coal transport should be allowed via trucks. (Action by SECL).*
- d. Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pretreatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.*
- e. Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).*
- f. Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.*
- g. Proper and free health care facilities with multispecialty treatment system may be provided in all coal mine-adjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).*
- h. Strict vigilance by MOEFCC for green belt development compliance as per EC conditions.*
- i. We also recommend that **no further conversion of UG mines to Open Cast mines** be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major*

noncompliance in pollution control and social cost (rehabilitation).

4.2 Long-term measures

- a) **Based on evidence summarised above, the committee is of the opinion that the Tamnar-Gharghoda block region is close to exceeding its environmental carrying capacity.** However, the precise extent of current environmental load and the likely impacts of future mining and industrial activities has to be worked out through a detailed and comprehensive **environmental load carrying capacity study, to be carried out by a reputed environmental research institute or a consortium of such institutes over a 24-month period.**
 - i) The study must cover dimensions of air pollution (especially PM_{2.5}), water pollution and ground and surface water depletion, soil contamination, forest and biodiversity loss, and social and health impacts.
 - ii) Moreover, given the geography of the region, the study must assess the carrying capacity separately for two different subregions: the northern Tamnar (coal mining related) block and Gharghoda block. Moreover, since Chhal open cast mine located in southern Dharamjaigarh block is located on the bank of Mand River and therefore in an eco-sensitive zone, a baseline study of this region may also be carried out. The southern Tamnar subregion has already been studied for environmental load carrying capacity by IIT Kharagpur (report submitted to CECB in 2018) and it has already recommended strict regulation of any further industrial development in particular parts of the sub-region through a high-level committee.
 - iii) Mode of commissioning of this study may please be decided by the Hon'ble NGT, and necessary directions may please be issued accordingly.
- b) **To reduce the pollution and other impacts caused by road transport** of coal and other minerals, directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail or closed conveyor belt only.
- c) **Condition of greenbelt development** may be incorporated at TOR stage of EC application to ensure

that greenbelt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MOEFCC. Further, while granting TOR, EAC should specify the location of the greenbelt to provide buffer between coal mine and human settlements, and specify a sufficient width of the greenbelt for the same.

- d)** *Ministry of Coal be directed to include the necessary provisions **to ensure the acceptance of fly ash** in coal mines for disposal through OB dump and back-filling as per fly ash notification of 2009.”*

4. *We find that the recommendations are based on relevant studies and need to be implemented by the concerned power plants and mines in the area for protection of environment and the public health and the environmental rule of law.*

5. *The applicants have, while broadly expressing satisfaction with the report, made certain suggestions. First suggestion of the applicants is that carrying capacity assessment must be expeditiously carried out and till such assessment is done, expansion and new projects should be only after thorough evaluation. Further suggestion is that there should be a mechanism to oversee the remedial measures, including oversight of health mitigation measures suggested by the Committee.*

6. *We are of the view that since serious deficiencies have been found and there is potential for damage to the environment as observed in the report, the ‘Precautionary’ and ‘Sustainable Development’ principles require that any further expansion or new projects in the area should be allowed after thorough evaluation only and mechanism for remedial measures should be in place, including oversight of measures for health mitigation. The Committee already constituted in terms of order of this Tribunal dated 22.07.2019 will act as an Oversight Committee. The nodal agency for the purpose will be the CPCB. Meeting of the Committee may be held atleast once in two months or at such interval as may be decided by the Committee. Mitigation measures for health issues may be overseen by the Principal Secretary, Health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary, Health, Govt. of Chhattisgarh will be at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds. The Committee may give a status report on the issue as on 30.06.2020 by 15.07.2020 by e-mail at judicial-ngt@gov.in. The Oversight Committee may issue appropriate directions to the project proponents for other remedial measures.*

7. *The above report may be looked into and acted upon by the Ministry of Coal as well as MoEF&CC for such further action as may be necessary.”*

3. Accordingly, report has been filed by the CPCB on 17.11.2020 giving the status of compliance of the recommendations in a tabular form as follows:

“ S. No.	Orders of the Hon’ble NGT from recommendations in the report, November 2019	Compliance Review Status on 09.11.2020
01	Short term measures	
a)	Requiring all coal mines in Raigarh district to accept fly ash for disposal through OB dump and back-filling. (Action by respective Coal mine companies).	Three SECL mines are found complying. Letters were issued to SECL Chaal OC, Monnet Ispat, HINDALCO Limited and M/s Ambuja Cement Ltd. M/s HINDALCO mines informed about no OB dump because of continuous back filling of mined area with OB as per Approved mining plan. M/s Monnet Ispat Mines has been taken over by SECL. No response received from M/s Ambuja Cement Limited. More over CEA vide its letter dated 14.02.2020 has informed about declaration of abandoned mines on recommendation of task force. The list includes 24 abandoned OC mines of Chhattisgarh to be used for filling of fly ash generated from TPP. Process of allocation no of these mines to TPP of Chhattisgarh is under taken by CECB and is on advance stage. Annexure-II
b)	Given the seriousness of improper fly ash dumping in low lying areas, and the practical difficulty in rigorously monitoring the implementation of the recent SOP in the field, no further disposal of fly ash in low-lying areas by TPP/CPP companies to be permitted and all Gram Panchayats in Raigarh district to be directed to stop issuing NOCs for the same.	District Collector of Raigarh has issued letter to concerned department for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly Ash. During visit of the committee, disposal of fly ash in low lying area was not observed. Annexure-III
c)	Requiring that whatever coal is being supplied to JPL and JSPL from Gare Palma IV/2&3 should be transported through the already existing closed conveyor belts and no such coal transport should be allowed via trucks. (Action by SECL).	Based on the observation of CECB, RO, Raigarh, it seems to be complied.
d)	Establishment of monitoring cell by PHED to monitor water quality being used by the residents of villages and provide pre –	The representative of PHED present during visit of the committee has informed that PHED established water testing

	treatment facility and removal of geogenic contaminants and anthropogenic contaminants before its use as drinking water. Specifically, the quality of water treatment in the mine-supported water supply system in village Kondkhel needs to be ensured by PHED as per drinking water norms.	laboratory at Gharghoda and Raigarh for testing of drinking water quality of the area. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. (Annexure-IV) The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tape water in village and ensure quality of water in coordination with PHED Raigarh.
e)	Installation of adequate number of CCTV and CAAQM stations in coal mining area. Proper records under CCTV coverage shall be maintained by coal mines to ensure movement of covered trucks loaded with coals and regular and comprehensive operation of sprinklers in coal zone, stockyard and all mine roads. CAAQMS shall be connected to CECB/CPCB server, and also displayed on the mine gates for public information. (Action by respective coal mine companies).	- As per field report by CECB, RO, Raigarh it seems that CCTV has been installed by M/s HINDALCO Industries, SECL Gare Palma IV/2 & 3, SECL Chhal. SECL Gare Palma IV/1. At the time of visit M/s Monnet Ispat Mines were not found operational. - In case of installation of CAAQMS all the mines have informed that as per mandatory conditions of EC and CTO fixed location ambient air Quality monitoring is being conducted by the units and reports are regularly submitted to MoEF&CC and CECB.
f)	Proper repairing and maintenance of roads both inside and outside the mine area to ensure smooth movement of trucks and other load carrying vehicles. (Action by Public Works Department and respective mining companies). Indian Railways to be directed to submit a time-bound action plan for commissioning of the railway line in Tamnar and Gharghoda blocks to ensure all coal transportation by rail.	- Letter issued to PS, PWD, S1/03, Mahanadi Bhawan, Raipur by this office vide number RDB/ NGTOA-104/2018/553 dated 07.09.2020. EE PWD was present before committee to appraise the status of PWD roads in the area. Committee has observed very bad road condition in Tamnar and Gharghoda area which seems to be one of the major factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara

		about 35 Km) but due to budget constraint the work is pending since last several years. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 kms, 7m wide tar road from Gharghoda to Jampali in compliance of Hon'ble NGT order. - IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia- GharghodaKorichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghodabhalumuda- Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela-Dharamjaygarh will be completed by December 2020. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2020. As informed by the representative of Indian Railway rest 02 sidings shall be completed by March 2021. (Annexure-V) Compliance in Progress
g)	Proper and free health care facilities with multispecialty treatment system may be provided in all coal mineadjacent villages as per the recommendations of the committee report of 14.6.2019 in the Dukalu Ram (OA 314/2014 CZ) case. (Action by respective coal mine companies).	Mitigation measure for health issues is to be overseen by the Principal Secretary, health, Govt. of Chhattisgarh. For this purpose, the existing arrangements in the local areas may be reviewed and further strengthened to meet the requirements. The Principal Secretary Health, Govt. of Chhattisgarh is at liberty to issue appropriate directions to the concerned project proponents also for their initiatives out of CSR funds.
h)	Strict vigilance by MOEF&CC for green belt development compliance as per EC conditions	MoEF&CC has started close monitoring for green belt development in all coal mines. Compliance in progress.
i)	We also recommend that no	Letter has been issued to

	<i>further conversion of UG mines to Open Cast mines be permitted in Tamnar and Gharghoda, keeping in mind the environmental costs in terms forest loss, major noncompliance in pollution control and social cost(rehabilitation).</i>	<i>MoEF&CC (IA-Coal) for implementation of restriction on conversion of UG coal mines to OC coal mines in Tamnar and Garghoda area of District Raigarh.</i>
02	LONG TERM MEASURES	
a)	<i>Commissioning a detailed and comprehensive environmental load carrying capacity study (as mentioned in NGT order), to be carried out by a reputed environmental research institute over a 24 month period.</i>	<i>The matter was discussed with CPCB HO and got advised to include the project in State EC fund as defined by Hon'ble NGT. In order of this proposal for the same has been prepared by CECB and submitted to CPCB for compilation of all project and submission before Hon'ble NGT. Annexure-VI</i> Compliance in progress.
	<i>Mode of commissioning of this study may please be decided by the Hon'ble NGT and necessary directions may please be issued accordingly</i>	
b)	<i>To reduce the pollution and other impacts caused by road transport of coal and other minerals directions may be issued that coal transport by road from coal mines or to thermal power plants in these two blocks will be permitted only for 1 year, after which transport must be done by rail of closed conveyor belt.</i>	<i>As per report obtained from SECL it is evident 35% increase in daily average dispatch by rail in comparison to the FY-2019-20 after construction of new rail line between Kharsia-Gharghoda- Korichhapar. Coal dispatch from Korichhapar railway siding commenced in the FY2019-20. It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.</i>
c)	<i>Condition of green belt development may be incorporated at TOR stage of EC application to ensure that green belt work shall be in place at the time of final presentation for obtaining EC, which shall be verified by MoEF&CC. Further while granting TOR, EAC should specify the location of the green belt to provide buffer between coal mine and human settlements and specify sufficient width of the green belt for the same.</i>	<i>Copy of Hon'ble NGT order dated 27.02.2020 has been sent to IA-Coal on 18.09.2020 for further necessary action by MoEF&CC.</i>
d)	<i>Ministry of coal be directed to include the necessary provisions to ensure the acceptance of fly ash in coal mines for disposal through OB dump and backfilling as per fly ash notification of 2009.</i>	<i>Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. Process of allocation of these mines to TPP of Chhattisgarh is under taken by CECB and is on advance stage.</i>

”

4. The Committee has also made field observations and recommendations as follows:

“FIELD OBSERVATIONS:

1. Pursuant upon long deliberations by CPCB, Central Electricity Authority, NTPC and Ministry of Coal through Task Force, list of 24 abandoned OC mines of Chhattisgarh has been submitted to be used for filling of fly ash generated from TPP. Member Secretary CECB has informed about considering mine wise allocation of abandoned coal mines as declared by CEA vide its letter dated 14.02.2020. The co-operation of SECL is not satisfactory as many applications of TPP of Tamnar & Gharghoda area are lying unattended by SECL.
2. District collector, Raigarh has issued letter to concern departments for directing all gram panchayats for not issuing any NOC to use low lying area for disposal of Fly ash. During visit committee has observed restriction on fly ash disposal in low lying areas particularly in agricultural fields of the villages.
3. In compliance of letter issued by Nodal Officer of the committee on 07.09.2020 to PS, PHED, Raipur, it was informed that PHED has established water testing laboratory at Gharghoda and Raigarh for testing of drinking water quality of the area. PHED, Raigarh has also established 06 control rooms and circulated the contact numbers of the concern officers to manage any crisis of drinking water availability in Raigarh District. In order to provide proper treatment for removal of any geogenic contaminants PHED Raigarh has also provided 05 Electrolytic DE fluoridation (EDF) plants in 03 villages (Pata, Mudagaon, Saraitola) of Tamnar Block. Moreover 12 hand pumps, 02 Power pumps and 01 tap water supply have been provided in Kondkel area. In addition to above PHED, Raigarh has also proposed drinking water supply scheme (Rs. 1270.41 Lakh project cost) for 10 mining effected villages of Tamnar Block. The details submitted by PHED, Raigarh was verified in Kondkel Village and found insufficient with respect to population of the village. The representative of PHED present during visit of the committee has informed that PHED has established 04 hand pumps, 04 Power pumps and 01 tap water supply have been provided in Kondkel area. The residents of the village has informed about frequent lowering of ground water table due to UG mining activity. Representative of the PHED was also in concurrence with the observation of the villagers. In order to ensure regular and good water quality to villagers the committee has directed M/s Hindalco to provide tap water supply from mine in village and ensure quality of water in coordination with PHED Raigarh. M/s Hindalco Coal Mine shall also submit report on quantity of mine water generation from UG mines to make an assessment for water supply required from PHED.

4. *Installation of CCTV system in mines of the area was reported complied by all mines whereas its proper operation and recording is to be ensured by SECL in its all mines located in Chhal and Gare Palma.*
5. *EE PWD was present before committee to appraise the status of PWD roads in the area. Committee has observed very bad road condition in Tamnar and Gharghoda area which seems to be one of the major factors for deterioration of ambient air quality. EE PWD Sh. Khamra has informed the committee about requirement of immediate construction of approximate 111 Km CC road (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) but due to budget constraint the work is pending since last several years. An amount of Rs. 335 Crore may be required to complete the construction of CC road in the area of Tamnar and Gharghoda. More over SECL has paid an amount of 42 Crore to Raigarh PWD for construction of 19 kms, 7m wide tar road from Gharghoda to Jampali in compliance of Hon'ble NGT order.*

IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2020. IRCON International Limited, in reference to our letter dated 07.09.2020 has informed that 44 Km Railway line work from Kharsia – Gharghoda – Korichhapar has been completed and started transportation of coal. Work for 14 km rail line from Gharghoda – Bhalumuda – Gare Palma will be completed by June 2021. Rail line work from Karichhapar – Kurumkela – Dharamjaygarh will be completed by December 2020. IRCON has to construct 05 numbers of coal siding in Tamnar and Gharghoda area for increasing rail coal transportation. As on date of committee visit IRCON has completed 03 coal siding and made 01 siding operational, 02 more siding will be made operational by December 2020. As informed by the representative of Indian Railway rest 02 sidings shall be completed by March 2021. As per data received from major mining company of the area i.e. SECL, it is reported that 35% coal transport increase has been observed in comparison to last financial year 2019-2020. (AnnexureVII) It is assumed that coal transport by rail may increase by 50% in addition to earlier transport in rail by December 2020.

6. *In reference to instruction on point 2 (a) (ii) regarding carrying capacity study, CPCB has advised CECB to include the project cost in EC fund sponsored project and proposal for same has been prepared by CECB and submitted to CPCB for further essential action.*
7. *The committee has also discussed the issues in meeting with Collector, Raigarh to expedite the required development as*

directed by Hon'ble NGT in its order. The outcome of the meeting has been considered in the recommendations.

In view of the above field observations, the recommendations of oversight committee are as under.

RECOMMENDATIONS :

- 1. In order to ensure development of health facilities in the villages of mining affected areas, Principal Secretary, Health Chhattisgarh Government may be advised to keep informing the oversight committee about development made in health facilities.**
- 2. Hon'ble NGT may like to direct Principal Secretary, PWD, Chhattisgarh Government to sanction budget of Rs. 335 crore (@Rs 3.00 crore per km) for construction of CC road approximately 111 km length of 7m width (Raigarh to Dharmajay Garh about 76 Km and Punjipatra to Milupara about 35 Km) and ensure its execution before March 2021. In this context time bound action plan with bank guarantee of Rs. 35 Crore may be obtained from PWD, Chhattisgarh to ensure timely execution of the work.**
- 3. Directions from Hon'ble NGT may also be issued to CMD, SECL, Bilaspur to expedite allotment of abandoned coal mines in consultation with CECB and complete it before 31st December 2020."**

5. From the above, it does appear that action so far taken is not adequate and further steps need to be taken in the light of the recommendations made. The Principal Secretary, Health and the PWD Department, Chhattisgarh Government and the South Eastern Coalfields Limited (SECL) may act as per recommendations of the Committee. Coal transportation by rail be increased for abatement of air and dust pollution.

6. Further, the applicant has given suggestions by way of written submission filed on 18.11.2020, inter-alia to the effect that contaminated sites be seen, fly ash dumping in low-lying areas be ensured and such dumping should not be in unscientific manner. The legacy fly ash dumps be remediated. Air and land pollution due to fire in the coal mines be remedied. Coal transportation by trucks must be done on scientific basis

and transportation by conveyor belts be preferred. Road maintenance be improved. Continuous Ambient Air Quality Monitoring Station (CAAQMS) be installed. Steps be taken for recharge of the ground water. Water supply to the concerned villages be provided by pipes. The submission of the applicant are:

“ ...

5. *That at the outset it is stated that the Committee did not meet with Applicants during their recent visit which was important as the Applicants would have shown the contaminated sites to the committee which are grossly missing in the present Report dated 17h November,2020. The Committee has only seen the sites which the CECB has shown to it. It is submitted that the Committee should plan an immediate visit after informing the Applicants so that the Applicants can help the Committee to identify the contaminated sites and resolve the environmentally problematic issues as mentioned in the Order dated27.02.2020 of this Hon’ble Tribunal.*

6. *That Overall the report does not provide any evidence (in the form of photos, lists of sites visits, descriptions, who did they meet etc) to back up its conclusions. For example in places where the committee has come up with conclusion that fly ash dumping in low lying areas have been restricted. It is stated that no proof has been given for the same. There are no photographs that have been attached or list provided of which sites they have visited and what information they have noted by the Committee. Also the local community members have provided a list of sites and photo documentation of how new fly ash dumping sites have been created in various parts of the region in violation of the Hon’ble NGT's Order/s however till date no action has been taken in any of these cases. The Applicants are annexing the recent photographs showing that the fly ash dumping is still taking place and nothing has been done with respect to removal of legacy fly ash dumps. The non-clean up of legacy fly ash dumps would lead to leachate when it comes in contact with water and would further lead to water and soil pollution.*

Photographs alongwith GPS location and date are annexed herewith showing the Fly ash dumps which are annexed herewith as ANNEXURE-B (Collectively).

7. *That it is also important to point out that the Coal mines of Gare IV/2 and Gare IV/3 is also witnessing air and land pollution due to fire in Coal mines of Gare IV 12 and Gare IV/3. Had the Committee contacted the local community members they would have shown the sites which are witnessing fire in Coal Mines. Recent Photographs showing the fire in Coal mines of Gare IV/2 and Gare IV/3 are annexed herewith as ANN EXURE-C (Collectively).*

8. *That on the issue of coal transportation by trucks, the committee has given a vague response of "seems to be complied" which does not make any sense, either the condition is complied or not to be complied. However the committee has once again not provided any details of the transportation of coal via conveyor belts such as trip sheets or how much quantum of coal has been transported by a conveyor belt to provide proof that the condition is being complied with. Mere vague statement of the committee in this regard cannot be accepted as proof.*
9. *That the direction about CAAQMS has NOT BEEN COMPLIED WITH. What is even more shocking that, the committee which has been appointed to oversee the implementation of the direction is justifying the non-compliance by advancing the industry's faulty logic in this regard, It is stated that EC and CTO condition is to provide regular monitoring data which is not the same as a24X7 and 365 day monitoring through OAAQMS.*
10. *That the committee itself observes bad road in the region hence it is clear that road maintenance direction has NOT been complied with.*
11. *That Directions regarding the mitigation measures of health issues in the region HAVE NOT been complied with. The Principal Secretary-Health, GoW. of Chhattisgarh has not been implementing any health related measures and local community health is in a very precarious situation which fact is observed in a recent Health Assessment RepoG 2019-2020 titled "HEALTH ASSESSMENT OF VILLAGERS OF TAMNAR BLOCK, DISTRICT RAIGARH (C.G.)" submitted to Indian Council of Medical Research, New Delhi, Year 2019-2020. Copy of relevant pages of this study is annexed herewith as ANNEXURE-D.*
12. *That on the issue of green belt development, the committee has pushed the responsibility on MoEF&CC. It is not clear in describing the actual status on the ground. there is no actual evidence provided by the committee to support their "compliance in progress" remark. The committee's vague remark without any submission of documents of the mine wise status of greenbelt development is nothing but mere bald assertions without any proof.*
13. *That regarding the water testing laboratories at Gharghoda and Raigarh for testing of drinking water quality there is no evidence on record that the same are in fit working condition. Similarly, on the issue of water testing, the Applicants state that in Saraitola area the water contains high fluoride content and there is no evidence on record to show that Electrolytic DE fluoridation(EDF) Plants in 3 villages (Pata, Mudgaon, Saraitola are in fit working condition). The Committee has failed to provide any testing results from the area as to what was found in the drinking water and whether the same was*

in usable condition by the local villagers. There is no evidence or proof filed by committee regarding the sites where the drinking water is potable and where the same is not potable and need further treatment for the villagers to be used. There should be a timeline provided by the Committee to test the water quality in the Tamnar and Gharghoda blocks and a study regarding the sites of potable water needs to be done in coordination with PHED and the local villagers.

14. *That the Committee has agreed that there is a problem of frequent lowering of ground water table due to mining activity at page 7 of the Report.*
15. *Inspite of acknowledging the problem of frequent lowering of ground water table due to mining there are no plans or action taken proposed for replenishing the fast depleting water table or curbing the future mining activity.*
16. *It also states that M/s Hindalco has been told to provide Tap water supply from the mine in the village and ensure quality of water in co-ordination with PHED Raigarh. It is stated that the same should be done for Neelupara and adjoining area where there are very few drinking water facilities. The Report is silent on new sites where drinking water facility has been provided.*
17. *That in the long term compliance section the details provided in Annexure VI for the carrying capacity study is grossly insufficient. The proposal of CECB is to just conduct a source apportionment study. A source apportionment study cannot be considered as a carrying capacity study. Source Apportionment (SA) is the practice of deriving information about pollution sources and the amount they contribute to ambient air pollution levels. The concept of carrying capacity describes the relationship between resources, environment and human activities to ensure sustainability. Carrying capacity is also defined as "the growth limits an area can accommodate without violating environmental capacity goals". The carrying capacity study will assess the maximum number of individuals/ industrial activities that an area's resources can sustain indefinitely without significantly depleting or degrading those resources or causing environmental or public health depletion. It is re-iterated that a proper detailed proposal on carrying capacity study has to be done and shared with the community before progressing with the compliance."*

The above suggestions may be duly considered by the concerned authorities and the Committee which may be coordinated by the CPCB.

We also direct the Collector, Raigarh will stand inducted as Member of the Committee. The applicant has also filed IA No. 382/2020 for a

direction that expansion of the project be allowed only after carrying capacity assessment is done. This aspect may be gone into by the Expert Appraisal Committee (EAC).

7. A further status report may be furnished after four months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List for further consideration on 13.04.2021.

A copy of this order be forwarded to the MoEF&CC, NEERI, CPCB, State PCB, Dr. Sarat Chander Lele, EAC Member Coal and Thermal, MoEF&CC and the Collector, Raigarh by e-mail for compliance.

M. A. Nos. 279/2018 and 858/2018 which were filed in the year 2018, may be treated as disposed of in view of the above order. Execution Application 05/2019 also stands disposed of.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 20, 2020

M.A. No. 279/2018, M.A. No. 858/2018
& I.A. No. 382/2020 in OA No. 104/2018
and EA No. 05/2019 IN O. A. No. 104/2018
DV

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

Original Application No. 104/2019 (WZ)
(I.A. No. 05/2020 & I. A. No. 56/2020)

IN THE MATTER OF :

1. Nitin Devraj Jaru & Anr.

Village- Kidana,
Taluka- Gandhidham,
Gujarat.

.....Applicant

Versus

1. Union of India,

Through Secretary, Government of India
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan, CGO complex,
Lodhi Road, New Delhi-110001

2. Gujarat Pollution Control Board,

Paryavaran Bhavan, Opp. Bij Nigam,
CHH Road, Sector 10A,
Gandhinagar, Gujarat 382010

3. Central Pollution Control Board,

Parivesh Bhawan, East Arjun Nagar,
Delhi-110032

4. Central Ground Water Authority,

Jamnagar House, 18/11,
Man Singh Road Area,
New Delhi-110001.

5. Gujarat CZMA,

Block No. 14/8th Floor, New Sachivalya,
Sector- 10A, Gandhinagar
Gujarat-382010

6. M/s SAL Steel Pvt. Ltd.

S. No. 245 P, Bharapar,
Gandhidham, Kutch,
Gujarat-382010

....Respondent(s)

Counsel for Appellant(s):

Mr. Sanjay Upadhyay, Advocate

Counsel for Respondent(s):

Ms. Manasi Joshi, Advocate for R-1 /MoEF&CC

Mr. Maulik Nanavati, Advocate for R-2/GPCB

Mr. Aniruddha Kulkarni, Standing Advocate for R- 3/CPCB

Mr. A. J. Pathak, Advocate for R-4/CGWA

Mr. Shri. Pinaki Misra, Senior Advocate along- with Mr. Sumit Attri, Advocate for R-6/PP

PRESENT:

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Reserved on : 31.03.2023

Pronounced on : 13.04.2023

JUDGMENT

1. This Application has been filed with the prayers that the Respondent No.2/Gujarat Pollution Control Board (GPCB) be directed to issue closure order to the Respondent No.6/M/s SAL Steel Pvt. Ltd. (PP) until all conditions of the NOC are complied with; direction be issued to Respondent No.1/MoEF&CC to cancel the Environmental Clearance (EC) for violation of the EC conditions; direction be issued to Respondent No.4/Central Ground Water Authority to seal all illegal 12 tube wells being operated by the Project Proponent (PP); direction be issued to Respondent No.6/PP to relocate the Sponge Iron Plant in accordance with the Central Pollution Control Board (CPCB) Guidelines/ Code of Practice for Pollution Prevention for Sponge Iron Plants (2007) read with Notification dated 30.05.2008 issued by the MoEF&CC; direction be issued to Respondent No.6/PP to remediate the environmental damage caused to the agricultural fields of the Applicant due to continued fugitive emissions, coal dust, contaminated ground water etc., heavy Environmental Compensation be levied from Respondent No.6/PP for the destruction of the local environment as well as illegal depletion of ground water; disciplinary proceeding be initiated against the erring officials under Section 28, NGT Act, 2010

2. **The brief facts of this cases as submitted by the Applicant are as follows:**

The Respondent No.6/ M/s SAL Steel Pvt. Ltd. (PP) applied for NOC to Respondent No.2/Gujarat Pollution Control Board (GPCB), which is dealing in production of Sponge iron, Ferro alloys, Power, SS/MS, Round Flat angles and other structural steel, HR Coil, Plates, Structural Steel, Beams, angles, Channels, H-Beams, Wire Roads, MS Roads (through Blast Furnace Sponge iron and rolling mills), Electricity Power and Cement from Clinker (grinding). It applied for NOC to set up an industrial plant at Survey No. 143, 145, 146 of Village Shinay and at Survey No. 245, Village Bharapar, which was granted on 31.01.2004. The said NOC was amended by Respondent No.2/Gujarat Pollution Control Board (GPCB) on 09.07.2004 for increased production capacity of Ferro Alloys from 2500 MT/month to 5000 MT/month. The Respondent No.2/GPCB granted NOC dated 21.04.2006 for full capacity utilization of industrial unit at Survey No. 245/P which was valid for five (5) years. The said NOC categorically contemplated that the Respondent No.6/PP would obtain ISO-14001 and OSHAS-18001 certification within one year from the grant of NOC which has not been obtained till date. Point No.12 categorically stated that ground water shall not be used for any industrial purpose. Point No. 21 mandates that the fly ash would be handled and managed as per Fly Ash Rules. The Unit stands in clear violations of all these conditions. The NOC has specifically prohibited Respondent No.6/PP from undertaking any construction or production activity without obtaining prior Environment Clearance (EC), but the Respondent No.6/PP admittedly started production on 27.11.2005 without Environmental Clearance (EC), as the same was granted on 01.11.2006, which is evident from all the Gujarat Pollution Control Board (GPCB) inspection reports which are annexed as Annexure A/10. Environment Clearance was granted on 01.11.2006 to Respondent No.6 unit as it fell under Item 13(a) Primary metallurgical industries (such as production of Iron and Steel, Aluminium, Copper, Zinc, lead and Ferro Alloys) of Schedule I of EIA Notification, 1994 requiring a prior

Environment Clearance (EC). The EIA Notification, 1994, clearly distinguished 'Primary Metallurgical industries' and 'thermal power plants' as two separate Items, meaning thereby that they were supposed to be assessed separately which is also borne out by the fact that the EIA Notification, 2006, by then, had become applicable when the Environment Clearance (EC) was given. The General Conditions to each of these Units are different and the Environment Clearance (EC) itself is bad in law on this ground alone. The Respondent No.6/PP was granted EC by Respondent No.1/MoEF&CC on 01.11.2006 for expansion of existing production capacity of ferro alloy of 2500 MTPM to proposed additional production capacity of 2500 MTPM in 220 ha in Paiki, Bharapar, Gandhidham, Kutch. It specifically provided that the total water requirement of Respondent No.6/PP from River Narmada should not exceed 3,000 m³ / day as permitted by Gujarat Water Supply and Sewerage Board. It was further provided in the Environment Clearance (EC) that the water requirement of 800 m³ /day would be met from the desalination plant and that Respondent No.6 would be a Zero Liquid Discharge unit. The Environment Clearance (EC) further specified the particulate emissions would not exceed 50 mg/NM³ and that the Respondent No.6 shall install four ambient air quality monitoring stations. All the above stated conditions of the Environmental Clearance (EC) have been blatantly violated. The unit is admittedly extracting ground water illegally, continuing to discharge untreated effluents contaminating ground water used by the Applicant and other villagers for domestic and agricultural purposes. It has failed to install at least four ambient air quality monitoring stations. Environmental statements submitted by the Respondent No.6/PP annually from 2009 to 2019, falsely indicate adherence by the Unit to all the legal parameters. The statements from 2009-2011 indicate the presence of Fly Ash within the category of 'Solid Waste' produced on the site of the unit. But, in the statements from 2012-2019, the Fly Ash component has been entirely

removed from the Unit's 'Solid Waste' production'. It is evident that wrongful storage and dumping of Fly Ash has continued to be there and besides that, the same was dumped also near creek in CRZ III area of Tuna Vandi Village, 15 Kms away from the Unit, in violation of the CRZ Notification 2011. The Respondent No.6 was granted Consolidated Consent and Authorization (CC&A) for all the units including the Captive Power Plant, Sponge Iron Plant, Ferro Alloy plant and others, by the Gujarat Pollution Control Board on 25.03.2009 whereas the date of issuance of consent is stated to be 06.03.2009. At point 2 the Consolidated Consent and Authorization (CC&A) it is stated that the said consent is valid till 16.12.2009 whereas at point 5.4 it is stated that "The Authorisation shall be in force for a period of one year from the date of application". The unit in question being a Red category industry i.e. an industry which has the highest potential to pollute is eligible for CC&A for the period of one year under the consent management regime in India. There is no provision under the Environment law to grant a consent for a period of nine months as has been done in this case. Further, it is also made clear that there is no provision under Hazardous Rules to grant authorization from the date of the Application itself. The Respondent No.2/GPCB, on 07.05.2010 made an "Amendment in Consolidated Consent" dated 25.03.2009 and was extended the validity of CC&A till 27.05.2012 subject to all the conditions remaining the same. On 19.10.2011, the Consolidated Consent and Authorization was given which is valid until 03.05.2016, and later renewed on 31.12.2016 to make it valid till 03.05.2021, subject to several Special and General Conditions. Some of these conditions put complete restriction on extraction of ground water for industrial usage and direction was given to use water as per water allocation by Gujarat Water Supply and Sewerage Board; the other conditions required zero discharge of waste water (effluents), since it was to be used for cooling purposes, display of online data outside unit about quantity and nature of hazardous

chemicals handled by the unit, observance of permissible air quality standards for each of the components within unit, compliance of the provisions of EPA and Guidelines issued by MoEF&CC and CPCB; in the case of damage caused to person/ property by the industrial activities at the Unit, Respondent No.6 would be liable to pay compensation as determined by the competent authority, all these terms and conditions have been violated. The Respondent No.6 is illegally extracting and storing ground water through tube wells from a nearby village of Shinay without prior NOC from the Central Ground Water Authority (CGWA). The Respondent No.6 has been disposing fly ash near a creek in the Coastal Regulation Zone III area of the Village of Tuna Vandi. The fugitive emissions from the Unit are polluting and degrading the environment of the adjacent villages which has been noted in Site Inspection Reports by GPCB. The location of the unit of the Respondent No.6, the Sponge iron plant also violates the CPCB Guidelines/ Code of Practice for Pollution Prevention for Sponge Iron Plants (2007) read with Notification dated 30.05.2008 issued by the MoEF&CC, wherein it is laid down that no Sponge iron plant would be established within 1 km of the residential clusters in the village. But no action in this regard has been taken by the GPCB such as shifting of the said unit in a phased manner for which a time bound plan was required to be prepared by the Gujarat Pollution Control Board. It is further submitted that the Gujarat Pollution Control Board (GPCB) had conducted various Site Inspections, the dates of which are given in Para-14 of the Application and each time failure in compliances of the directions was noticed. Despite several representations by the Applicant and other members of the village community, dates have been given in para-15 of the application, to the government, Gujarat Pollution Control Board, District Coastal Zone Management Committee and the MoEF&CC nothing was done. The Gujarat Pollution Control Board (GPCB) has issued multiple Show Cause Notices to the Respondent No.6 which ultimately led to the Closure order

dated 29.04.2019 thereafter, the Respondent No.6/PP applied for its revocation as mentioned in para 17. In pursuance to the request for revocation, the Gujarat Pollution Control Board once again conducted a Site Inspection on 14.05.2019, but did not object to the Unit being illegally operated despite the Closure Order dated 29.04.2019, rather proceeded to issue a Revocation of the said closure Order on 15.05.2019 for a three month period on trial basis to observe all its parameters. The said Revocation placed the unit of Respondent No.6 under certain conditions, including adequate and efficient operation of the APCM provided with the Kiln and the Boiler, appropriate collection and storage of Fly ash through pneumatic system as per the Fly Ash, Notification, maintenance of the fly ash disposal records, adequate and efficient operation of the APCM provided to control the fugitive emissions, compliance with the conditions of the Consolidated Consent and Authorization (CC&A) and observance of the Coal Handling Guidelines. The said Revocation order was challenged before the Appellate Board, though it has not been numbered. The unit still continues to violate the above mentioned conditions. In pursuance of the Revocation of the Closure order dated 15.05.2019, once again site inspection was conducted and air samples etc were collected on 11.06.2019 from the stack attached to 100 TPD Kiln, and on 11.07.2019 from the boiler of 60 TPH. The GPCB, found that the emissions were in excess of the limits prescribed. In Report of Gujarat Pollution Control Board dated 04.07.2019, it was recorded that 12 illegal bore-wells were found extracting ground water from the nearby village of Shinay for industrial use by the Respondent No.6 unit without the requisite permission of the Central Ground Water Authority in complete violation the Central Ground Water Authority Guidelines, 2016 as well as condition of NOC. Even a letter was addressed by the CGWB to the District Collector, forwarding the complaint of the Applicant regarding abstraction of ground water by Respondent No.6 unit illegally. In the light of the above

observation, another Closure Order was issued on 30.07.2019, which is annexed as Annexure 14. Despite the observation made in above Closure Order regarding violation, the same was revoked on 14.08.2019 which is annexed as Annexure -15 and hence it is noteworthy that the Respondent No.2 /GPCB's actions in regard to the revoking of Closure Order, despite continued illegalities by Respondent No.6 should be taken note of by this Tribunal. The unauthorized Fly Ash dumping in village, Tuna Vandi is absolutely illegal because under the permissible activities in CRZ area, the said activities are not covered and that all the permissible activities such as water-front activities need prior CRZ clearance from the MoEF&CC as recommended by the State Coastal Zone Management Authority. The Tuna Vadi area falls in CRZ III as per the Coastal Zone Management Plan (CZMP). There is need to direct sealing of all the 12 illegal tube wells at Village Shinay by the Respondent No.6 for abstraction of water illegally in violation of Central Ground Water Authority guidelines and without NOC from the said Authority. Hence, the above prayers have been made.

3. This matter was first considered on 15.01.2020 and the directions were issued to send notices to the Respondents, pursuant to which service affidavit has been filed as per which service, on all the Respondents, is sufficient.

Next material consideration has been made by this Tribunal on 30.03.2022 whereby a Joint Committee was directed to be constituted and in this very order it is also mentioned that the water is national wealth belonging to entire society in view of the judicial pronouncements in ***State of Orissa Vs. GOI, (2009) 5 SCC 492 and Keshoram Industries (2004) 10 SCC 201*** and it was observed that it cannot be taken to be right of CGWA or SEIAA to permit potable drinking water to be used for private industrial purpose for which secondary water can be used. Further, it is observed that even if any such permission is given, the same cannot be accepted as valid unless the same can be justified

showing that enough drinking water is available or other compelling need. There is also need to independently investigate the fly ash disposal and management issue and the issue of fugitive emission from the processes of the plant in question and during transportation. The Committee which was constituted was also directed to consider the justification for the quantity of potable ground/ surface water consumption by the industry and options available such as treated waste water or the desalinated water and also ascertain status of utilization /management plan of fly ash, slag and other waste. In compliance with the above direction the Joint Committee report has been submitted which is annexed at Page No. 682 to 760 of the paper Book. The relevant portion of which is quoted hereinbelow:

“5. Findings:

5.1. Findings w. r. to task assigned to Joint Committee by Hon’ble NGT:

The finding of Committee on the task assigned is tabulated below:

Sr. No.	Task assigned	Findings of Joint Committee
1	<i>Permissibility of drawl of water from Narmada.</i>	• <i>GWIL supplies water for industrial as well as domestic purpose. Various cities, villages and industries are connected with GWIL water supply line. GWIL has also planned 150 MLD desalination plant in Kutch to improve the supply. GWIL takes measures like reducing the agreed water supply for the industries to ensure water availability for common citizen.</i> • <i>Villagers in the area are getting water either one time in a day or on alternate days. This shows that sufficient quantity of Narmada water for all users is not available at present.</i>

		• The first agreement between the unit and GWIL was for 3000 m³/day water which was reduced to 600 m³/day at present. • The cement plant is closed by the unit and hence, additional water requirement does not arise. Supply from GWIL water may be capped or reduced looking into saline ground water availability and/ or near vicinity of sea.
2.	Ground water extraction.	• Entire plant and its buffer zone is categorized as saline zone by CGWA making the groundwater of area unfit for direct domestic consumption. Saline water extraction is allowed as per Gazette notification SO3289 (E) dated 24.09.2020 (para 7) by Ministry of Jal Shakti subject to NOC from CGWA. The plant has applied for NOC renewal which was rejected due to shortfall of documents. Application is further submitted for NOC which is under consideration. Since, the NOC Application is under re-consideration by CGWA, the period and quantity of illegal extraction of ground water may be established after decision of CGWA on NOC application. In case of any gap between the date of expiry of NOC and date from which NOC is renewed, environmental compensation may be recovered.

		• <i>CGWA has informed that NOC was issued in the year 2019 after impact assessment study in the buffer zone by the unit.</i> • <i>At present, the unit operates 06 bore wells whose depth varies from 170 feet to 250 and saline water is abstracted.</i> • <i>As per the Environmental Clearance accorded in the year, 2006, groundwater abstraction is limited to 800 m³/day but it is increased in proportion to the reduction in GWIL water supply. At present the unit abstracts groundwater to the tune of about 2436 m³/day.</i> • <i>Single groundwater recharge structure constructed by the unit cannot be termed as sufficient groundwater recharge measure especially in this area where average rainfall for last 10 years is about 483 mm only. Additional groundwater recharge structures and rainwater harvesting practices are required to be adopted.</i> • <i>Saline groundwater abstraction may be allowed with a condition to establish seawater desalination plant in time bound manner to meet the water requirement of unit.</i> • <i>Once the seawater desalination plant is installed, the unit may use primarily</i>

		treated seawater for heat exchanger of power plant also which is presently using groundwater and GWIL water.
3	Air Pollution	• The unit has started using lignite as fuel in boiler but air pollution control devices are not augmented correspondingly. This has resulted in higher particulate matter and higher SO₂ emissions. The industry need to augment ESP of boiler and install desulphurization system for boilers. GPCB analysis reports from June 2019 to till date reveals that the unit was almost meeting the prescribed emission standards for stack except exceedance for 100 TPD kiln at one instance and AFBC boiler at one instance. • There are several fugitive emission source which includes material storage, transfer of materials and spillages which need to be properly addressed by providing de-dusting stack, enclosures, water sprinkling system and dry fog systems efficient manner.
4.	Dumping of fly ash in CRZ area without requisite permission.	• The unit has disposed fly ash in CRZ area without permission from relevant authority. The dumped fly ash is lifted and taken back inside the unit and dumped in low lying areas in the year 2019.

		• Fly ash is dumped on the claimed request of local villagers which remain dumped approximately from 01.06.2019 to 14.08.2019. The intention was to reclaim the land which is a prohibited activity in CRZ area. The violation period is 74 days. Environmental compensation amount is Rs. 12.60 lakhs may be recovered. • The CRZ area is by and large devoid of any major vegetation or inhabitation (where fly ash dumped) and the water solubility of heavy metals in ash were very less. Hence, no other significant impact except violation of CRZ notification is visualized.
5.	Justification for the quantity of potable ground/ surface water consumption by the industry.	The process requirement of unit and its consumption is appearing to be justified based on technical aspects of installed equipments, RO Reject water and backwash water is used for gardening and dust suppression. However, the present practice of water handling can be improved. The waste water from domestic consumption can be treated and reused which may save more than 50 m ³ /day, better housekeeping in raw material handling, bag filters at transfer junction of conveyor belts, black topped/ concreted internal road and parking area, leakages arresting and proper handling of fugitive emissions by dry fog and fogger guns instead of truck mounted water sprinkler will reduce water consumption.
6.	Options available such	• Domestic wastewater can be treated

	<i>as treated waste water or the desalinated water.</i>	<i>in STP and reused to save atleast 50m³/day freshwater. But this may not be sufficient to replace GWIL water.</i> <i>• Rainwater harvesting may also be considered by the unit. But this will also not sufficient to replace ground water abstraction and GWIL water as only 483 mm annual rainfall is expected in the area based on last 10 years rainfall.</i> <i>• Seawater desalination plant can be installed. Approximate distance for conveyance of sea water/ desalinated seawater would be less than 6 km. Alternatively, the unit may install a seawater desalination plant of suitable capacity at suitable location (to avoid 6 kms long pipeline) and feed in GWIL supply line and same quantity can be taken at plant location as water conveyance infrastructure is already available.</i> <i>• The installation of seawater desalination by the unit will reduce or eliminate ground water requirement which may positively impact groundwater in the area to resist further salinity ingress.</i>
7.	<i>Status of utilization / management plan of fly ash, slag and other waste.</i>	<i>• Large quantity of fly ash and slag is available within the unit. The accounting of fly ash by the unit is conservative. The unit can generate 2282 TPD fly ash at full load capacity of captive power plant apart from about 26 TPD slag at full load capacity.</i>

		• Based on present practice of the unit, it may be said that presently generated fly ash is partly disposed in low lying area within the plant premises, partly disposed through cement plant but very less quantity is being used in block manufacturing. It is difficult to say that the plant is 100% utilizing the generated fly ash at present. • Slag management is relatively poor than fly ash due to unavailability of user industries. • The unit should strengthen its solid waste disposal practice by using in block manufacturing, infrastructure development other recommended way.

5.1 Findings w. r. to some representation made by the complainant.

The finding of Committee with respect to the grievance raised by the applicant as per the order dated 04.04.2022 is tabulated below.

Sr. No.	Key Grievance	Findings
1.	Air quality of kiln and boiler is beyond the norms.	• 500 TPD Kiln along with WHRB and power plant was operated. • 500 Kiln stack emissions were observed in compliance with respect to standard prescribed by GPCB in CC&A. • Power Plant was exceeding emission standards for the parameters PM and SO₂
2.	The unit is extracting ground water illegally through twelve tube-wells in village Shinay without requisite NOC from the Central	• The CC&A of the unit specified source of water as borewell and GWIL. • At present unit do not have valid NOC from 13.12.2021 onwards. The NOC application of the unit is

	<i>Ground Water Authority (CGWA) and also against the CTO.</i>	<i>under consideration at CGWA.</i> <i>Groundwater withdrawal is not against the CTO as CC&A has prescribed source of water as ground water and GWIL without bifurcation of quantity.</i>
3	<i>Fly ash dumping in village Tuna Vandi which is part of the CRZ III is in violation of CRZ Notifications.</i>	<i>Unit has disposed about 2880 Tons of fly ash in Tuna village which is lifted back.</i> <i>The dumping of fly ash in CRZ area is violation of CRZ notification, 2011 for which environmental compensation of Rs. 12.60 lakhs may be recovered.</i>
4.	<i>The unit has sponge iron plant with captive thermal power plant for which consolidated consents have been granted though such consents should be individual.</i>	<i>The power plant and WHRB are meant for mainly internal power consumption. CC&A has prescribed emission norms for power plant also, hence single consent may be justified.</i>

6. Conclusions:

The unit has taken measures to improve solid waste management and 500 TPD kiln was found in compliance of emission standards prescribed in CC &A. However,

- I. *The unit has violated CRZ Notification 2011 and accordingly Rs. 12.60 lakhs is payable as environmental compensation in lieu of illegal disposal of fly ash in CRZ area.*
- II. *At present, the unit does not have NOC from CGWA for withdrawal of saline ground water but their application for renewal of NOC is in process at CGWA.*
- III. *Based on present conditions, there is no alternative sources of water for plant other than GWIL and saline groundwater. GWIL water supply is designed for domestic and industrial use. However, the unit should consider seawater desalination plant as consistent source (with time targeted action plan submission and implementation) and gradually reduce their*

dependency on existing source namely GWIL and ground water. This will not only improve availability of water for common citizen by GWIL but also positively impact groundwater.

- IV. The unit should install desulphurization system and augment ESP for captive power plant boiler as it uses lignite resulting in exceeding emissions w. r. t. Standards prescribed from the power plant stack.*
- V. The unit should effectively take measures to control fugitive emissions with time targeted action plan in the process area, improve raw material storage area by wind breaking wall or three tier plantation and improve solid waste utilization to achieve 100% use of ash and slag. Scope exists in terms of concrete block manufacturing and use infrastructure projects apart from cement industry.*
- VI. Dry fog system should be installed all along the conveyor belt and fogger system should be used at all fugitive emission vulnerable source instead of water sprinkling through tankers. Improved housekeeping clubbed with fogger guns will be more sustainable and effective than heavy water consuming vehicle mounted sprinklers of fixed sprinklers.*
- VII. The transfer junctions of all conveyor belts and material transfer points should be provided with dust extraction system.*
- VIII. Three tier plantation all along the plant boundary is required to contain the fugitive emissions.*
- IX. Construct concreted boundary wall along the existing fly ash dump area and reduce dependency on land disposal of fly ash.*
- X. Install Sewage treatment plant comprising of atleast primary and secondary treatment so that treated sewage can be reused.*
- XI. Rainwater harvesting may be practiced by the unit.*

4. The stand of **Respondent No.3/CPCB** is as follows:

The Respondent No.2/GPCB and Respondent No.3 CPCB have conducted site inspections, verified observations mentioned in the application and noticed failure in compliance of the directions given to Respondent No.6/PP resulting in issuance of Show Cause Notice in the

past. A team of officials from answering Respondent carried out inspections and monitoring of the Respondent No.6/pp during 21.05.2013 to 23.05.2013 with respect to a public complaint and subsequent to the visit, direction under Section 5 of the Environment (Protection) Act, 1986 was issued to the Respondent No.6, on 06.01.2014 by the Answering Respondent to submit a time bound action plan and bank guarantee, which is annexed as Annexure-I. The Respondent No.6/PP submitted point wise compliance to the Answering Respondent. Thereafter, the answering Respondent revisited the site during 23.04.2014 to 25.04.2014 and subsequently on 17.12.2015 to verify the compliance status, based on which answering Respondent forfeited the bank guarantee of Rupees Ten Lakhs submitted by the Respondent No.6/PP and issued show cause notice to the unit on 08.06.2016 for closure of the unit, which is annexed as Annexure II. The Respondent No. 6/PP replied through letter dated 20.07.2016 and provided point wise compliance status and upgradation steps carried out by them. Thereafter, the officials of Answering Respondent visited the unit again on 22.12.2016 and verified the compliance status and found that the compliances have been done, the report of the said visit is annexed as Annexure III. It is further submitted that the Answering Respondent issued closure direction to the Respondent No.6 unit for non compliance of direction to install On- Line Continuous Emission / Effluent Monitoring System (OCEMS) vide letter dated 06.04.2017, which is annexed as Annexure IV, and subsequently, on installation of OCEMS the closure direction dated 06.04.2017 was revoked, vide letter dated 01.06.2017, which is annexed as Annexure- V.

5. The stand of **Respondent No.1/MoEF&CC** is as follows:

The project in question falls in category 'B' projects and Environmental Clearance (EC) was issued for the same by the SEIAA-Gujarat to the Respondent No.6/Project Proponent.

6. The stand of **Respondent No.6/Project Proponent** is as follows:

The Answering Respondent is a group company of SAL Group, which was established 35 years ago, and the SAL Group is engaged in multiple businesses such as production of Steel & Steel products, Health care, Education etc. which is a public listed company incorporated in 2003 and a manufacturing facility was established in the year of 2005-2006 at Bharapar Village kutch District, Gujarat. The industry is currently employing more than 1000 people including service providers, transporters, etc. The Answering Respondent's manufacturing facility was established pursuant to a Memorandum of Understanding (MOU) dated January 13, 2005 entered into with Government of Gujarat under the Vibrant Gujarat for re-development of Kutch, which was undertaken subsequent to the earthquake of 2004. As per the MOU, the Government of Gujarat has allocated land of around 200 acre for establishment of steel plant in the village of Bharapar, Kutch, District Gujarat, which has been allotted to the Answering Respondent in a heavy industrial zone as has been declared by the State Government. The operation of the plant was started in the year 2005-2006 and is complying with all the environmental conditions. The Applicant has filed this application with malafide intentions and all allegations made by him are denied. The answering Respondent has not disposed a single kilogram of fly ash within the premises in last year, and all the fly ash was being used and sold to cement/ block manufacturer. With regard to submission of a detailed study report of a competent agency for disposal of fly ash, impact, monitoring and other points as per the Official Memorandum of MoEF&CC, the answering Respondent has annexed a copy of the report prepared by ATIRA. The unit has constructed boundary wall/ wind breaking wall near the adjoining farms to control dust. The answering Respondent has submitted the time schedule with fly ash management plan. The answering Respondent has been submitting weekly progress report to Regional Office, Kutch, giving there-in detailed progress report,

day to day generation of fly ash, as well as use of available fly ash on monthly basis. The answering Respondent has already obtained permission for abstraction of ground water from CGWA, which is annexed as Annexure R-3. As per the letter dated June 16, 2020 it has informed Gujarat Pollution Control Board (GPCB) that the monthly generation of fly ash is around 600 MT., which was being utilized in the plant itself. The distribution of this fly ash was being done to various cement producers and block producers. The Fly Ash was being disposed to mainly Sanghi Cement Ltd. and nearby block makers. By the answering Respondent, 24000 MT of fly ash was being used for filling of low lying area. The factory land of the Answering Respondent is lower than the surrounding area, and to avoid water logging, the fly ash has been utilized and that plantation is also being done by it. The State Government has re-allocated 33 acre of land, on which the Answering Respondent is developing residential quarters as well raw material storage godown, for which the fly ash would be needed and a plan for the same has been submitted by the Answering Respondent to the Competent Authority. In case such permission is not granted, the fly ash will be used for brick manufacturing, for which an automatic fly ash brick manufacturing machine has been ordered to be purchased. The capacity of the said machine would ensure that entire fly ash around the plant would be used in 14 to 16 months. Further, it is submitted that the answering Respondent has engaged Ahmedabad Textile Industry's Research Association (ATIRA), renowned and government approved organization working in the field of Environmental Pollution Control, for detailed study regarding impact on environment from the activities of the unit of the answering Respondent, which has conducted the detailed assessment regarding fly ash management, has evaluated air and soil pollution due to disposal of fly ash in low lying area and has suggested various remedial measures to cope up with the pollution loads and has concluded that the Answering Respondent is efficiently managing the

generated fly ash and that there would be no adverse environmental impact. The answering Respondent is disposing all newly generated fly ash to cement supplier on day to day basis. The said agency has also observed that unit of the answering Respondent's generation and discharge of industrial effluent is nil and waste- water is used for cooling purpose and for water sprinkling purpose in premises. The unit has installed flow meter at inlet and outlet of ETP, as well as online monitoring system of water pollution; adequate stack height is provided for proper dispersion of gaseous emission; the unit has already installed and operates Bag filter, Electro static Precipitator (ESP), Multi- Cyclone Separator as Air Pollution Control Measures; the unit has facility for collection and storage of raw materials, and a covered shed and proper ventilation system is provided for the storage area; used oil is being used in the Unit for lubrication of plant and machinery and discarded containers are used for their own purposes, and some are sold to registered vendors.; the unit has provided fixed and mobile water sprinkler to control fugitive emission; the unit is regularly doing third party monitoring of Ambient air and stack, the report is annexed as Annexure – 4.

It is further submitted that the Gujarat Pollution Control Board (GPCB) has been monitoring the various compliances from time to time and whenever show cause notices were being issued to the Answering Respondent, the same were being adequately replied and whatever deficiencies were noted therein the same were taken care of at the earliest by it and pursuant to that the revocation orders have been passed regularly by the GPCB. Therefore, the answering Respondent has fully made the compliance. The Applicant belongs to the Village of Kidana which is around five kilometres from the plant site of Answering Respondent. The Applicants have a business of transport and water supply, and own the land adjoining the factory. They have repeatedly harassing the Answering Respondent in order to force the Answering

Respondent to purchase the land adjoining the factory, regarding which the criminal complaint has been lodged against them on various occasions. The Applicant and their associates repeatedly have obstructed usage of water by the Answering Respondent which is obtained by way of the pipeline link to Narmada which is at distance of 18 KM from the premises. The Applicants have repeatedly broken the pipeline and diverted the water for their personal usage and sale of the same, regarding which various complaints have been lodged against them by the Answering Respondent.

7. The stand of **Respondent No.4/CGWA** is as follows:

Through its affidavit dated 17.09.2021 at page No. 518 to 525 of the paper book, the Respondent No.6/Project Proponent had made online application for NOC dated 06.08.2019 for drawing 2506 m³/day of ground water from their existing 7 bore-wells and proposed 4 bore-wells. The answering Respondent has granted online NOC dated 26.12.2019 permitting ground water extraction of saline water from their existing 7 bore-wells to the extent of 2,436 m³ /day . The NOC is valid from 13.12.2019 to 12.12.2021 as per the terms and conditions prescribed therein. Further, it is submitted that in case the Respondent No.6 draws ground water from more than 7 bore- wells and beyond permissible limit stated above, it would be liable for penal action as per the provision under Section 15 of the Environment Protection Act, 1986.

8. The further stand of **Respondent No.6/Project Proponent by way of additional affidavit** is as follows:

The Answering Respondent has made reference of the conclusion drawn by the Joint Committee and submits that all the necessary measures in compliance with the conclusions have been taken by it and progress report dated 10th October, 2022 has been submitted in this regard to this Tribunal.

With regard to violation of CRZ Notification 2011, on account of which the Joint Committee had recommended Rs. 12.60 lakh to be

payable by the Respondent No.6/PP by way of Environmental Compensation in lieu of illegal disposal of fly ash in CRZ area, it is submitted that a farmer had approached the answering Respondent for fly ash, to use it for reclamation of land for farming. Since his demand was genuine, the answering Respondent supplied to him the fly ash. When it was brought to the notice of the answering Respondent that his land was falling in the CRZ area, the answering Respondent had lifted all the fly ash back under the supervision of the District Collector and GPCB officer at its own cost. Thereafter, the members of the Joint Committee also visited the site. Hence, no violation should be treated to have been done on behalf of the Answering Respondent.

The answering Respondent is willing to pay the Environmental Compensation of Rs. 12.60 lakhs for the sole purpose of restoration of the environment and the damage caused.

With respect to the unit not having NOC from CGWA for withdrawal of saline ground water and not having renewal, submitted that the answering Respondent has always been in possession of valid NOC from CGWA and have been applying for its renewal regularly. A water impact assessment study report conducted by an approved agency of CGWA was required to be submitted, accordingly, the same was conducted by J. M. Environment Pvt. Ltd., which was submitted to the department in the month of April 2022, which is annexed as Annexure-24. Thereafter, the NOC dated July 4, 2022 was issued to the Answering Respondent. Therefore, it is apparent that currently the Respondent No.6 possesses a valid NOC from CGWA for withdrawal of Saline Ground Water and it is valid for the period from December 13, 2021 till December 12, 2024, which is annexed as Annexure-25.

With respect to the suggestion by the Committee that unit should consider seawater desalination plant as consistent source (with time targeted action plan submission and implementation) and gradually reduce their dependency on existing source namely, GWIL and ground

water, which will improve availability of water for common citizen by GWIL and would positively impact groundwater, it is submitted that currently the Respondent No.6 has two sources of water i.e. the Narmada water and the Saline Ground Water. For the supply of Narmada water, the State Government has allocated quota to the State Industries and at present more than fifteen thousand units are using Narmada water, besides that GWIL is only an intermediate agency which has been supplying Narmada water to the unit of the Respondent No.6 within the prescribed limits. A copy of agreement between GWIL and Respondent No.6 for supply of Narmada water has been annexed as Annexure-26.

As per the policy of the Central Government, it is always encouraged to increase the use of the Saline Ground water, however, at present the unit of the Respondent No.6 is situated at a distance of 20 Kms away from the sea source and all the lands between the sea source and the unit belong to private parties, hence no permission would be given to lay the necessary pipelines by the private parties. The power to acquire the land is vested with the State Government, therefore, it would not be possible for the Answering Respondent to lay the pipelines and use the sea water.

Further, it is mentioned that the saline water being used for farming or for drinking water purposes by the unit of answering Respondent, is not beneficial and hence it is being used as a kind of wastewater. Therefore, the use of water from the current sources may be allowed to be continued as they are well within the limits. A copy of the guidelines for saline ground water abstraction is annexed as Annexure-27.

Regarding the recommendations by the Committee to install desulphurization system, to augment ESP for captive power plant boiler as it uses lignite resulting in exceeding emissions w. r. t. Standards prescribed for the power plant stack, it is submitted that to control the emission of SO₂, the answering Respondent has been dosing lime pre-

mixed with coal since the year 2021. In compliance with the GPCB guidelines dated June 3, 2021, the answering Respondent has also installed the facility of automatic dosing system since March 2022. A copy of the lime dosing details for the last months is annexed as Annexure-28.

The answering Respondent has completed the replacement of 100 old collecting electrodes with new electrodes. The maintenance of 200 emitting electrodes, 3 support insulators, 6 shaft insulators, 30 collecting rapping hammer and discharge rapping hammer each in the 100 TPH ESP had also been performed by the Answering Respondent in the month of January 2022. A total cost of Rs. 20,16,885/- was incurred for the 110 TPH Boiler work in the month of December, 2021. The answering Respondent has currently ordered materials worth Rs. 70 lakhs in order to enhance ESP internals and achieve better efficiency and operate efficiently.

With respect to the recommendation of the Committee that the unit should effectively take measures to control fugitive emissions with time targeted action plan in the process area, improve raw material storage area by wind breaking wall or three tier plantation and improve solid waste utilization to achieve 100% use of ash and slag, scope exists in terms of concrete block manufacturing and use in infrastructure projects apart from cement industry, it is submitted that the answering Respondent has already taken the necessary measures to control fugitive emissions by providing sprinkling water at various areas in the unit. The concrete block facility has already been installed in the unit. The answering Respondent has planted around 5500 plants in the year, 2019, 3700 plants in the year 2020, 100 plants in the year, 2021 and 800 plants in the year, 2022 in compliance with the recommendations of the Joint Committee. The Answering Respondent has installed a Block Making Machine in the unit for the utilization of fly ash and the same is being operated efficiently.

With respect to the recommendation of the Joint Committee that dry fog system should be installed all along the conveyor belt and fogger system should be used at all fugitive emission vulnerable source instead of water sprinkling through tankers, improved housekeeping clubbed with fogger guns will be more sustainable and effective than heavy water consuming vehicle mounted sprinklers or fixed sprinklers, it is submitted that the Answering Respondent has developed a movable mobile water fogging system at the unit, which includes fogging at coal ground hoppers, conveyors, and fly ash silos. A fixed water fogging system at coal ground hoppers has also been introduced by the Answering Respondent. The Answering Respondent has covered the conveyors with canopy of GI sheets to control fugitive emissions. The installation of fogging system at different locations would be completed within a period of six months.

With respect to the recommendations of the Joint Committee that the transfer junctions of all conveyor belts and material transfer points should be provided with dust extraction system it is submitted that the Answering Respondent has mostly covered the transfer junctions and conveyors present at the unit with dust extraction system like Bag Filters, Wet Scrubber, Cyclone Separator, and Electrostatic Precipitators. A dust abstraction system has also been provided at the screening & crushing of coal and iron ore. Another dust abstraction system at coal transfer tower, product separations and cooler discharge point has also been provided.

With respect to the recommendations of the Joint Committee that the three tier plantations all along the plant boundary is required to contain the fugitive emissions, it is submitted that the answering Respondent has conducted a number of plantations in the surrounding area of the unit.

With respect to the recommendations of the Joint Committee to construct concrete boundary wall all along the existing fly ash dump

area and reduce dependency on land disposal of fly ash, it is submitted that the answering Respondent has initiated the construction of boundary wall behind the fly ash storage area of the unit, which got interrupted due to the rainy season, and the same would be completed by February 2023.

With respect to the recommendations of the Joint Committee to install sewage treatment plant comprising of at least primary and secondary treatment so that treated sewage can be reused, it is submitted that the answering Respondent has already ordered the Sewage Treatment Plant (STP) from Orbit Industries for the treatment of sewage water in the unit. The location and area for the STP has also been identified and the installation work for the same shall be completed by December, 2022.

With respect to the recommendations of the Joint Committee that the rainwater harvesting may be practiced by the unit, it is submitted that the answering Respondent is practicing rainwater harvesting and has developed three percolating wells at the unit to recharge the ground water.

9. In I. A. No. 86/ 2020 filed by the Applicant, it is submitted that he seeks to bring on record the latest position through photographs in respect of the violations on the ground made by Respondent No.6 by destroying crops of the villagers in the vicinity. One of the Steel plate manufacturing plants of the Respondent Unit., has surprisingly been erected as a temporary structure and has begun manufacturing operations in the midst of the lockdown since June 2020 which has been causing severe air pollution due to the fugitive emissions in violation of the Air Act, 1981 as well as excessive noise pollution. The said Application was considered by us on 04.01.2023. The learned counsel for the Applicant has drawn our attention to the judgment of the NGT, Southern Zone Bench, Chennai, in Original Application No. 04/2019 (SZ) (Anirudh Reddy Vs. Union of India & ors.) along with the other connected applications

delivered on 28.09.2022, wherein matter was dealt with pertaining to relocation of the polluting sponge iron industries which were not complying with the siting criteria as per the guidelines issued by the MoEF&CC in 2008, in Clause 11 of which is provided for phasing/relocation of existing unit and in that regard large number of directions have been issued regarding relocation of such units. During the hearing the entire argument were made by the learned counsel for the Applicant and the same were concluded and an opportunity was given to the learned counsel for the Respondent No.6 to file a reply-affidavit to I. A. No. 86/20202 and give response to the argument made by the Applicant.

10. The further stand of **Respondent No.6/Project Proponent by way of another affidavit** is as follows:

The Respondent No.6 has filed another affidavit dated 19th January 2023, where-in it has been submitted that this affidavit is being furnished in view of this Tribunal's order dated 4th January, 2023 placing on record the facts and developments to challenge I. A. 86/2020. This affidavit contains almost same facts which have already been reproduced above in earlier affidavit from the side of the Respondent No.6, including the reproduction the conclusion part of the Joint Committee Report and compliances made in that regard from the side of the Respondent No.6. Therefore, they need not be reproduced again.

The learned counsel for the Applicant thereafter, has filed counter to the reply affidavit on 17.11.2022 of Respondent No.6/Sal Steel Ltd. on 21.01.2023, where-in similar facts have been reiterated which have already been mentioned by us above by giving pleadings in his main application. Therefore, they need not be reproduced again. The main emphasis is that the compliances have not been done of the terms and conditions stipulated in Environmental Clearance (EC) as well as in Consents.

11. We have heard the learned counsel for all the parties and perused the record.

12. On the basis of the pleadings of respective parties, we have to decide following issues in this case.

1. Whether the industry of Respondent No.6 needs to be shifted ?
2. Whether the terms and conditions as stipulated in Environmental Clearance (EC) dated 1.11.2006 have been violated by the Project Proponent (PP)? If yes, its consequences?
3. To what relief, if any, is the applicant entitled to ?

13. **FINDINGS:**

Finding on issue No.1

As regards this issue, we have to decide as to whether the industry of the Respondent No.6 needs to be shifted from the existing place. In view of the guidelines/Code Practices of Pollution Prevention of Sponge Iron Plants issued by the MoEF&CC on 30th May, 2008 which are annexed as Page No. 115 to 122 of the paper book. Guideline line No.11 thereof provides as follows:

- (a) Residential habitation (residential localities/ village) and ecologically and/ or otherwise sensitive areas: A minimum distance of at least 100 m (1.0km) to be maintained.*
- (b) If any plant/ clusters of plants are located within 1 km from any residential area/ village they may be shifted by State Pollution Control Board/ State Govt. in a phased manner for which a time bound action plan is to be prepared by SPCBs.*
- (c) The location of sponge iron plant should be at least 500 m away from National Highway and State Highway.*
- (d) Radial distance between two sponge Iron Plants should be 5km for plants having capacity 1000 TPD or more.*
- (e) Sponge Iron Plants can be established in designated industrial areas/ estates as noted by the Government.*

Having pointed out these guidelines, our attention was drawn to Clause (b) above which clearly provides that if any plant /clusters of plants is/are located within 1 km from any residential area/ village, they may be shifted by State Pollution Control Board/ State Government in a phased manner for which time bound action plan needs to be prepared by the State Pollution Control Board.

It is vehemently urged that it is evident from the evidence on record that within 1 km from the site where the industry of Respondent No.6 is situated, there is residential area, therefore under above guidelines it is bounden duty of the State Pollution Control Board as well as State Government to shift the industrial unit of the Respondent No.6 to some other location. In this regard reliance has been placed upon the judgment of the NGT, Southern Zone Bench, Chennai, in Original Application No. 04/2019(SZ) (Anirudha Reddy Vs. Union of India & Ors.) where-in already directions have been issued to the State Pollution Control Board and State Government to take steps in phased manner.

In This regard, from the side of Respondent No.6/ Project Proponent, emphasis has been laid that these guidelines would be applicable on new units of sponge iron plant which are to be opened /set up in future and further the stress was laid on word 'may' which has been used in sub clause-b of the above guidelines No.11 which says that such unit may be shifted. Having indicated above, it is argued by him that all the circumstances have to be looked into by the State Pollution Control Board as well as State Government before taking any action in this regard, which is not an easy task, because that involves huge expenditure and that land for locating the industry at new place would have to be provided by the State Government.

In this case we find that the industrial unit of Respondent No.6 has been set up in heavy industrial zone carved out by the State Government of Gujarat for development of Kutch region. There is no evidence on record to the effect whether the industries were existing on this spot already in this region prior to the other people settling down there within the range of 1 Km, or whether the people were already residing there and that subsequently despite knowing this fact, without providing any alternative place to the people who were living there, to be accommodated, this area was carved out as a heavy industrial zone

under 'Vibrant Gujarat' scheme. Due to lack of evidence regarding these facts, we do not find it appropriate to pass any order in regard to shifting of the Respondent No.6 from the present place to any other place. This issue is decided accordingly.

Finding on issue No.2:

As regards this issue, we have to decide as to whether violations have been made by the Project Proponent of conditions of the Environmental Clearance (EC). The learned counsel for the applicant has drawn our attention to Page No. 56 of the paper book, which is the Environmental Clearance (EC) dated 01.11.2006, wherein with respect to specific condition No.1, relating to the gaseous emission it was stipulated that the same would conform to the load/mass based standards notified by this Ministry on 19th May, 1993 and standards prescribed from time to time. The GSPCB may specify more stringent standards for the relevant parameters keeping in view the nature of the industry and its size and location. At no time, the emission levels shall go beyond the prescribed standards. In the event of failure of any pollution control system adopted by the unit, the respective unit shall not be restarted until the control measures are rectified to achieve the desired efficiency by putting in future the interlocking facilities which would help the process to stop automatically. On-line continuous monitoring systems shall be installed in stacks to monitor SPM and the data be submitted to CPCB and GSPCB regularly. It is submitted that this condition is violated since 2004 by the Respondent No.6/Project Proponent.

The condition No.2 stipulated that in plant control measures for checking fugitive emissions from all the vulnerable sources like spillage/ raw materials/ coal handlings etc. shall be provided and it is urged that this has also been violated.

The condition No.3 stipulated that the company shall install Waste heat Recovery Boiler (WHRB) to recover the waste heat and generate

power from the steam produced by the WHRB. The particulate emissions from the WHRB shall be controlled by the installation of ESP as per the CPCB specification, which too have been violated. Similarly, other conditions No. 4 to 7 have been violated. Thereafter, the attention was drawn to general conditions stipulated therein which state that no further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment and Forests. With respect to ambient air quality monitoring stations, conditions were stipulated to the effect that the report regarding the same shall be regularly submitted to the Ministry as well Regional Office GPCB /CPCB once in six months, this condition has not been fulfilled. Apart from these, general allegations are made that almost all the conditions which were stipulated in this Environmental Clearance (EC) have been violated by the Project Proponent.

Thereafter, the learned counsel for the applicant has drawn our attention to Page No. 707 of the paper book, which is the conclusion part of the Joint Committee report and specifically attention was drawn to Serial No.2 which says that the unit does not have NOC from CGWA for withdrawal of Saline Ground Water and to Serial No.3, which says that, there is no alternative source of water for plant other than GWIL and Saline groundwater. He stated that all the deficiencies which were noted by the Joint Committee have not been removed by the Applicant.

Thereafter, the learned counsel for the applicant has drawn our attention to Page No. 481 of the paper book, which contains photograph depicting destroyed agricultural land due to flow of fly ash from the premises of the Respondent No.6/PP unit.

Thereafter, the learned counsel for the applicant has drawn our attention to Page No. 1270 of the paper book, wherein the photographs are annexed of effect upon the agricultural land and water bodies of kidana & Bharapar by fly ash and dust as well as the effect on this agricultural land and water bodies due to use of saline water by the

Respondent No.6/Project Proponent in company premises without desalination plant have been established. Having drawn our attention to the photographs it has been vehemently argued that these photographs are indicative of the fact that no appropriate measures have been taken by the Respondent No.6/Project Proponent to take care of fly ash which has resulted in huge damage to the Environment in the local area. Thereafter, the emphasis has been laid by him on drawl of ground water without NOC from the CGWA and it is stated that the said authority came into force on 15.11.2012. Therefore, the applicant should be subjected to pay compensation for drawal of ground water without permission from the said date till taking of NOC.

From the side of Respondent No.2/ Gujarat Pollution Control Board (GPCB), learned counsel Mr. Maulik Nanavati has appeared and argued that GPCB is appropriate body which has been ensuring that the Project Proponent observed the terms and conditions of the Environmental Clearance (EC) as well as the Consent to Establish and Consent to Operate and that whenever any violation was found to be there on the part of Project Proponent of any of the conditions during the repeated monitoring through conducting inspections from time to time, the Gujarat Pollution Control Board (GPCB) has been issuing the closure direction to the Respondent No.6 and has been revoking the same also, if on subsequent occasion on conducting inspection the earlier deficiencies were noted to have been removed.

It is also argued by him that violation was found on the part of the Project Proponent (PP) regarding fly ash for 24 days for which Environmental Compensation of Rs. 12.60 lakh has been calculated, which the Project Proponent is ready to pay. During the arguments made by the learned counsel for the Applicant when it was enquired by us as to how it is being claimed that their crop has got damaged due to fly ash coming out of the unit of the Respondent No.6, as we did not find any evidence to have been brought on record in that regard, the learned

counsel for the applicant has suggested that for this, some agricultural university should be asked to make a study as to how much loss has been caused to the crops due to activities of the Respondent No.6/PP. In this regard the response given by the learned counsel for the GPCB is that the area where fly ash is said to have caused damage is barren area where there is no agricultural activity happening as the same is CRZ area, therefore for any loss to be assessed in that area the appropriate authority would be state Coastal Zone Management Authority and not any agricultural university. We find force in the argument of learned counsel for the Gujarat Pollution Control Board in this regard.

From the side of the Respondent No.6/ Project Proponent attention is drawn to Joint Committee Report at Page No. 680 of the paper book, regarding which he stated that in his additional affidavit it has been appraised us that compliance has been made of each and every recommendation and if, in regard to any recommendation, it was not possible to make compliance, the valid reasons there for, have already been indicated, therefore in view of his additional affidavit, it should be held by this Tribunal that there is no violation committed on the part of the Respondent No.6, of the terms and conditions stipulated in the Environmental Clearance (EC) conditions. The attention was also drawn by him to Page No. 703 of the paper book which is part of the said report, wherein it is recorded that NOC applications is under re-consideration of CGWA, the period and quantity of illegal extraction of ground water may be established after decision of CGWA on NOC application. In case of any gap between the date of expiry of NOC and date from which NOC is renewed, environmental compensation may be recovered. Regarding this observation it is stated by him that the NOC has been taken by the Respondent No.6 on 26.12.2019 which is evident from the reply of Respondent No.4/CGWA cited above by which permission has been granted for extracting saline water from their existing 7 bore- wells to the extent of 2,436m³ /day which is valid till 12.12.2021.

The learned counsel for the applicant has stated that CGWA was set up on 15.11.2012, but no documentary evidence is produced before us in that regard therefore, we cannot conclusively hold about it and also he has not placed on record any such document which says that under Rules/guidelines laid down by the CGWA, the Project Proponent was supposed to take NOC from which particular date. In this view of the matter, due to lack of evidence, we consider it appropriate to issue direction to the Respondent No.4/CGWA to give a hearing to the parties after fixing a date and decide upon the fact as to since when the Respondent No.6 was supposed to obtain NOC for extraction of ground water and as to till which date the violation, if any, has been made by it and to quantify the same in terms of money. This task would be completed within a period of one month from the date of this order and if it is found that any compensation is required to be paid in this behalf by the Respondent No.6, the same shall be deposited by the Respondent No.6/PP with Respondent No.4/CGWA within a week thereafter.

In view of the compliances shown to have been made from the side of the Respondent No.6/PP through filing affidavit dated 12th December, 2022, with respect to recommendation for the Respondent No.6 to consider setting up seawater desalination plant to meet its water requirement, justification has been given that the same is not possible for it to set up because the unit of the Respondent No.6 is situated at a distance of about 20 km from the sea and in between there are large number of private properties, which would not allow the Respondent No.6/PP to lay pipeline and that the acquisition of the said land at his end is not possible because the same can be done only by the State Government. Therefore, this justification appears to us to be a valid one. Further the explanation given by it that it is using water as per the quota allotted by the State Government for the state industries to use water for the industrial purpose as it has been granted permission to take water

from GWIL and through the bore-well, we do not find any infirmity in this regard.

We also find that nowhere has an opinion been expressed by the Joint Committee that the use of water by Respondent No.6 is resulting in any deficit of water to the general public of local area for personal consumption as well as for the purposes of agricultural irrigation. Since, there is no evidence to that effect on record brought from the side of various Stake holders, at this stage, we are not inclined to prohibit the Respondent No.6 from taking water from the existing sources because we have to keep in mind the principle of sustainable development. The development cannot be sacrificed at the alter of scarcity of water to the local residents. We have to strike a balance in this regard.

Regarding other violations, appropriate actions appear to have been taken already by the Respondent No.6 and that it is not to be forgotten that the GPCB has to be watchful all through in regard to the compliances to be made on the part of the Respondent No.6 and in case, at no point of time, it finds that any violation is being done, it shall take cognizance of the same promptly and would proceed in accordance with the Rules and guidelines. In view of the above, issue no.2 is disposed accordingly.

Finding on issue No. 3 :

As regards this issue, we have to decide as to what relief the applicant is entitled to. Since no personal relief has been claimed, there is no question of granting any personal relief to the Applicant in this case.

We also find that Rs. 12.60 lakh is assessed as Environmental Compensation to be paid by the Respondent No.6/PP for illegal disposal of fly ash in CRZ area, which is not disputed by the Respondent No.6/ PP nor the said amount has been disputed by the Applicant, therefore we direct that this amount shall be deposited by the Project Proponent

within one month from the date of order with GCZMA and that the GCZMA shall utilize that amount for improvement of Environment in the aforesaid area and for its restitution within next two months.

In view of the above findings we dispose of this application, with directions which are contained while deciding the above issues. No order as to costs.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 13, 2023.
Original Application No. 104/2019
Sachin J.

**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)



**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)

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 and Mr. Salik Shafique Respondent No.1: Ms. Panchajanya Batra Singh, Adv. Respondent No. 2&4: Mr. Narender Pal Singh, Adv. 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 and Mr. Kush Sharma, Adv. For DDA Ms. Puja Kalra, Adv. For SDMC and North MCD Mrs. Avnish Ahlawat with Mr. Nitish Singh for DTC/Transport Department, GNCT Mr. I.K. Kafila, Mr. A.K. Singh and Mr. Shikha Roy, Advs. For Karol Bagh Traders Mr. Ruchir Batra, Adv. Mr. Rahul Mehta, Adv. For Delhi Electrical Traders Association Ms. Savitri Pandey and Ms. Azma Parveen, Adv. for State of U.P. Ms. Sakshi Popli, Adv. for NDMC Mr. Pragyan Sharma and Mr. Deshu Kayina, Advs. For State of Mizoram Mr. K.V. Jagdishvaran and Mrs. G. Indira, Advs. For UT of Andaman & Nicobar Islands Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. For State of Haryana Mr. Ravindra Kumar, Adv. And Mr. Gudipati G. Kashyap, Adv. for NOIDA and Greater NOIDA Authority Mr. Mukesh Kumar, Adv. For NHAI Mrs. Aruna Mathur and Mr. Auneesh Arputham, Advs. For State of Sikkim Mr. Rajul Shrivastava, Adv. For MPPCB Mr. Devraj Ashok, Adv. For State of Karnataka Mr. Sahil Sangar, Adv. -Local Commissioner Mr. Sahil Savgar and Ms. Sayewa Mubin, Advs. For Chandani Chowk SVM (Intervenor) Ms. Pallavi Mohan, Adv. For Impleaders in M.A. No. 392/15 and 393/15 Inspector Prashant Kr. For Kotwali Mr. Pratap Singh for PWD Mr. Ramesh Kr., Inspector Mr. Dalbir Singh, Insp. Mr. K.C. Anand, Insp. Mr. Vijay, Insp.

Mr. Ravinder Kr., ACP
Mr. Surinder Kr., Insp.
Mr. Vijay Pal Singh, Insp.
Mr. Devshanker, ASP
Mr. Manesh kumar, Insp.

Original Application No. 95 of 2014

Present:	Applicant:	Appearance not marked
	Respondent No.1:	Mr. Vikas Malhotra & Mr. M.P. Sahay, Advs.
	Respondent No.2-6:	Mr. Ardhendumauli Kr. Prasad, Adv.
	Respondent No. 7 :	Mr. Rahul Chaudhary, Adv.
	Respondent No. 29 :	Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu
		Mr. Rahul Chaudhary and Ms. Pallavi Talware Advs. – Conservation ActionTrust.
		Mr. Devraj Ashok, Adv. For State of Karnataka
		Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. For State of Haryana
		Mr. Amit Verma and Mr. Aditya N. Prasad, Local Commissioners.

	Date and Remarks	Orders of the Tribunal
	Item Nos. 04 to 05 April 28, 2015 A	In the previous orders we had noticed high pollution of air in NCR Delhi. Needless to refer again to the various orders of the Tribunal where unquestionably it was clear from the records that ambient air quality of NCR of Delhi violates all prescribed norms and standards. The polluted air in NCR Delhi is injurious to human health particularly young children. It is in fact conceded on behalf of the Authorities present before us and the learned counsel appearing for various parties that the ambient air quality is so very injurious particularly to the children under the age of 5 years and they are suffering from asthmatic problems at this tender age. At the cost of the repetition, we may notice that there are three main sources of air pollution in the NCR of Delhi. They are dust, emissions resulting from burning and industrial pollution and finally the vehicular pollution. In relation to the pollution by dust we have already issued detailed directions vide order dated 10th April, 2015. Today we would take up the matter in relation to pollution by burning of various materials and pollution caused by emissions from industries.

		It is on record before us that the garbage and other burning is not the only source of the air pollutant and it forms nearly 29.4 % of the air pollution with reference to PM₁₀. Its contribution in terms of PM_{2.5} is not placed before us, despite our earlier orders. Burning trash in the open area produces many pollutants including dioxins, particle pollution, polycyclic aromatic hydrocarbons, volatile organic compounds, carbon monoxide, hexachlorobenzene and ash and fumes released can be carcinogenic. These are dimensions of the serious environmental issues that we are concerned with. It is absolutely essential that directions are issued by the Tribunal for prevention and control of air pollution requiring the Authorities concerned to stop this menace forthwith. Viewed from any angle, the high interest would call for prohibitory orders and imposition of fine and heavy compensation on violators, who for their short gains avoid hard work required of them in discharge of their duties and allow the burning of garbage, leaves and allied materials thus exposing the public at large to such serious life threatening diseases. There is complete unanimity at the bar that stringent steps are required to be taken to prevent and control air pollution particularly resulting from burning of garbage and other allied materials. We hereby restrain any person from burning crop residues and trash. Thus, we issue the following directions:- 1. All the directions contained in our order dated 04th December, 2014 shall continue to be in force and the Authorities concerned would carry out the said directions in their true spirit and substance.

	2. There shall be complete prohibition of burning of any kind of garbage leaves, waste plastic, rubber, self-moulding compound and such other materials in the open. Any person affected or concerned would have a right to make a complaint in writing or otherwise to the SHOs of the concerned area, the office of the Corporation, Council or Local Authority under whose jurisdiction that area falls, DPCC or State Pollution Control Board, and to its Regional Branches and to the Head of the Department of the concerned Authority/Government. We hereby direct every public Authority, Corporation, State Governments of NCT of Delhi, Uttar Pradesh and Haryana to forthwith notify the telephone numbers, website addresses or any other electronic media and process to which the complainant can make a complaint to any or all of the Authorities as indicated hereinabove. The complaints preferably should be made to the Authorities concerned who have jurisdiction over the area in which the offending activities is being carried on has been carried on. 3. We are informed that DPCC has already provided a Facebook account of Delhi Pollution Control Committee and the Whatsapp No. 09717593474 to this effect. All the Corporations within two days from today would notify on their websites the Website address and Mobiles Number to which such complaint can be made/sent. Similar steps should be taken by the concerned states falling in NCR. 4. It is directed that immediately upon receipt of such

		complaint, the concerned Authority and/or Authorities through the designated Officers would proceed to take action in accordance with law. 5. We direct that for every incident of burning of any such above stated material, the person who is found actually burning such material and/or responsible for or abating such burning would be liable to pay compensation in terms of the Section 15 of the National Green Tribunal Act, 2010 for polluting the environment and would be liable to pay a sum Rs. 5000, to be paid instantaneously. 6. In the event such offender refuses to comply with the directions of the Authorised Officers, the Authorised Officers would be at liberty to serve a Notice upon him for appearing before the Tribunal and to show cause why the person burning, abating or responsible for such burning materials afore indicated, be not directed to pay compensation as may be determined by the Tribunal in accordance with law. 7. We make it clear that the orders of the NGT are to be complied with as a decree/order of the Civil Court. Thus, all these Authorities and the Police are duty bound to carry out the directions/orders of the Tribunal in accordance with law. The money so collected, shall be maintained by the Corporation and/or any Authority as a separate fund to be utilised for improvement, restoration and restitution of the environmental degradation resulting from such activity or otherwise. 8. We make it clear that the payment of such

		compensation shall not absolve the offender of other liabilities that such person may incur under different laws in force including other provisions of the National Green Tribunal Act, 2010. 9. To ensure that there is no burning of leaves or horticulture residue, we direct all the Corporations, Authorities and the State Governments to ensure that there is proper composting pits area-wise prescribed within one week from today. The composting will be only at those sites and all the Corporations, Authorities and the State Governments shall be responsible to provide due space for collection and deposit of horticulture waste including leaves for composting purposes at these sites. 10. Each Officer under whose jurisdictions the area would fall, would be personally responsible and all the Officers. Officials working under him would be personally responsible for imposition of compensation and costs. If any activity is found to be carried out in any area of NCR of Delhi in violations to the Orders of the Tribunal and the law in force in that regard, the Deputy Commissioners, Director Horticulture, SHO concerned, Assistant Commissioners, Sanitary Officers of the area would be personally responsible. Similarly Officers from the State of Haryana and Uttar Pradesh would be personally responsible for compliance of these directions. 11. The composting sites should be provided nearer to the places where there is a large number of trees,

		gardens and the compost bits which also convert into self-manure should be used for horticulture purposes to ensure that the burden on the site does not increases beyond its capacity. 12. The decision in regard the land fill sites should be taken by the DDA and NCT of Delhi as expeditiously as possible in any case not later than three weeks from today. We may notice that Hon'ble Supreme Court of India in Writ Petition No. 888 of 1996 in the matter of Almitra H. Patel Vs. Union of India had directed the Authorities to identify such sites as back as on 15th February, 2015 unfortunately till date adequate number of sites have not been earmarked. Let this be done within the stipulated period under these directions and such sites be identified by the respective Corporations and Authorities if not done so far. 13. In relation to burning of plastic and allied produces, we issue specific directions to the concerned Police Officers and the Officers of the Corporations that no one would permit the burning of plastic and allied products in part of NCR of Delhi. If Authorities notice any burning of such materials they would not only ensure that such activity does not persist but even would be entitled to seize the entire material which is illegally and unauthorisedly stored held by a person is does not possess of a license or authorisation for dealing with such products in accordance with The Plastics Waste (Management and Handling) Rules, 2011. Upon seizure of such material, the Authorities would take a direction from

		the Tribunal and dispose of the same by giving it to the Authorised Dealer in accordance with directions issued. 14. The CPCB and DPCC would jointly conduct inspection of all the thermal power stations generating electricity using coal and gas as its fuel within two weeks from today. The ambient and stack air quality samples would be collected and the analysis reports be submitted to the Tribunal. This amongst others would include Badarpur, Indraprastha, Rajghat, Dadri and Bawana plants. We make it clear at this juncture that all these power generating plants should improve their working and should be fully sufficient so as to cause no pollution. In the event of violation of prescribed standard, the Tribunal would be compelled to pass coercive orders in accordance with law. 15. The CPCB, DPCC and Uttar Pradesh and Haryana Pollution Control Boards shall ensure that brick kilns working and operating in NCR have consent of the Boards and are adhering to the prescribed norms for emissions. 16. In the event of any of the brick kilns found to be in violation of the environmental norms or is operating in violation to the conditions of the consent order, the Report shall be submitted to the Tribunal and notice upon such Units to show cause why they should not be directed to be closed forthwith for such violations. While conducting inspection of such brick kilns, it will also be reported as to what extent the fly ash is being used for the purposes of

		manufacturing the bricks. If none, causes thereof. 17. We direct the Local Bodies, Corporations, Councils and the State Governments of NCT of Delhi, Uttar Pradesh and Haryana to immediately publicise and educate public at large, particularly the people living in unauthorised colonies, farmers and persons dealing with different kinds of waste, safai karamchari in regard to the ill effects of burning of the materials afore-recorded on the human health. Necessity for taking up remedial and corrective measures and also punitive consequences that may result from violation of these directions. 18. We direct the teams of the State Pollution Control Boards, DPCC and CPCB to examine the impact of industries or individual involved in pottery and ceramic industries in the NCR of Delhi and the remedial measures that are required to be taken. 19. We also direct to the DPCC, Pollution Control Boards to inform the Tribunal if they have taken steps for registration of the plastic recycling in accordance with law or not. List these matters on 01st May, 2015 at the end of the Board. ,CP (Swatanter Kumar) ,JM (U.D. Salvi) ,EM (Dr. D.K. Agrawal) ,EM (Prof. A.R. Yousuf)

		,EM (B.S. Sajwan)



Corrected Judgment(Vide order dated: 02nd January, 2017)**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

ORIGINAL APPLICATION NO. 199 OF 2014**IN THE MATTER OF:**

1. Mrs. Almitra H. Patel
Convener, INTACH Waste Network
Residing at No. 50, Kothnur
Bangalore 560 077
 2. Capt. J.S. Velu,
Organiser, Exnoraintach Clean India Campaign
Having his address
C/o Anjanappa, No. 2
Oil Mill Road, Satipalya
Lingarajapuram,
Bangalore 560 084
- Applicants

Versus

1. Union of India
Through the Secretary (Health)
Ministry of Health and Family Welfare
Government of India
Having his office at Nirman Bhavan
New Delhi.
2. The State of Andhra Pradesh
Through the Chief Secretary
Having his office at
The Vidhan Sabha
Hyderabad 500 486
3. State of Assam
Through the Chief Secretary
Having his office at
The Secretariat
Dispur 781 005
4. The State of Bihar
Through the Chief Secretary
Having his office at
The Patna Secretariate
Patna – 800 015



NGT

5. The State of Gujarat
Through the Chief Secretary
Having his office at the
Vidhan Sabha
Gandhi Nagar - 382010
6. The State of Kerala
Through the Chief Secretary
Having his office at
The Secretariat
Thiruvananthapuram 695 001
7. The State of Madhya Pradesh
Through the Chief Secretary
Having his office at
The Vidhan Sabha
Bhopal 462 003
8. The State of Tamil Nadu
Through the Chief Secretary
Having his office at
The Secretariat
Chennai 600001
9. The State of Maharashtra
Through the Chief Secretary
Having his office at
The Mantralaya
Mumbai 400 032
10. The State of Karnataka
Through the Chief Secretary
Having his office at
The Vidhan Soudha
Bangalore 560 001
11. The State of Orissa
Through the Chief Secretary
Having his office at
The Secretariat
Bhubaneswar 751 001
12. The State of Punjab
Through the Chief Secretary
Having his office at
The New Secretariat
Chandigarh 160 001

13. The State of Rajasthan
Through the Chief Secretary
Having his office at
The Secretariat
Jaipur 302 005
14. The State of Uttar Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Lucknow 226 001
15. The State of West Bengal
Through the Chief Secretary
Having his office at
The Secretariat Bldg.
Calcutta 700 001
16. The State of Jammu & Kashmir
Through the Chief Secretary
Having his office at
The Secretariat
Srinagar 190 001
17. The State of Nagaland
Through the Chief Secretary
Having his office at
The Secretariat
Kohima 797 001
18. The State of Haryana
Through the Chief Secretary
Having his office at
The Secretariat
Chandigarh 160 001
19. The State of Himachal Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Shimla 171 002
20. The State of Manipur
Through the Chief Secretary
Having his office at
The Secretariat
Imphal 795 001

21. The State of Tripura
Through the Chief Secretary
Having his office at
The Secretariat
Agartala 799 001
22. The State of Sikkim
Through the Chief Secretary
Having his office at
The Secretariat
Gangtok
23. The State of Mizoram
Through the Chief Secretary
Having his office at
The Secretariat
Aizawl 796 001
24. The State of Arunachal Pradesh
Through the Chief Secretary
Having his office at
The Secretariat
Itanagar 791 111
25. The State of Goa
Through the Chief Secretary
Having his office at
The Panaji Secretariat
Panaji 403 001
26. The State of Delhi
Through the Chief Secretary
Having his office at
The Secretariat
New Delhi 110 001
27. The Central Pollution Control Board
Through its Chairman
Dr. Dilip Biswas
Having his office at Parivesh Bhawan
C.B.D.-cum- office complex
East Arjun Nagar, Delhi-110 032
28. The Municipal Corporation of the City of New Delhi,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Delhi Municipal Corporation Offices
New Delhi 110 001

29. The Municipal Corporation of the City of Calcutta,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices
Calcutta.
30. The Municipal Corporation of the City of Chennai (Madras),
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Ripon Bldgs. Periyar EVR Salai
Chennai (Madras) 600003.
31. The Municipal Corporation of the City of Mumbai (Bombay),
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Mahanagar Palika Offices
Mumbai (Madras) 400001.
32. The Municipal Corporation of the City of Bangalore,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices, N.R. Square
Bangalore 560 002
33. The Municipal Corporation of the City of Ludhiana,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Ludhiana 140001.
34. The Municipal Corporation of the City of Agra,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Agra 282001
35. The Municipal Corporation of the City of Mathura,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipality Offices
Mathura 281001.
36. The Municipal Corporation of the City of Varanasi,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipality Office
Varanasi 221001.

37. The Municipal Corporation of the City of Hyderabad,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Corporation Offices
Hyderabad 500486.
38. The Municipal Corporation of the City Of Ahmedabad,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Ahmedabad 380001
39. The Municipal Corporation of the City
Of Rajkot,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Municipal Corporation Offices
Rajkot 360001
40. The Municipal Corporation of the City of Surat,
Through its Municipal Commissioner
/Chief Executive Officer, having his office at
Muglisara, Surat.
41. State of Telangana
42. State of Chhattisgarh
43. State of Puducherry
44. State of Jharkhand
45. State of Meghalaya
46. State of Uttarakhand
47. U.T. Dadra and Nagar Haveli and Daman & Diu
48. U.T. Lakshadweep
49. Uttar Pradesh Pollution Control Board
50. Rajasthan State Pollution Control Board
51. Andaman and Nicobar Administration
52. Gujarat State Pollution Control Board
53. Punjab State Pollution Control Board
54. Goa State Pollution Control Board
55. Nagaland State Pollution Control Board
56. Maharashtra State Pollution Control Board
57. Tamil Nadu State Pollution Control Board
58. Arunachal Pradesh State Pollution Control Board
59. Odisha State Pollution Control Board
60. Madhya Pradesh State Pollution Control Board
61. Manipur Pollution Control Board
62. Chhattisgarh Environment Conservation Board
63. Puducherry Pollution Control Committee

64. Karnataka Pollution Control Board
65. Jharkhand State Pollution Control Board
66. Mizoram State Pollution Control Board
67. Meghalaya State Pollution Control Board
68. Assam State Pollution Control Board
69. Haryana State Pollution Control Board
70. Kerala State Pollution Control Board
71. Tripura State Pollution Control Board
72. Bruhat Bangaluru Mahanagar Palike

.....Respondents

COUNSEL FOR APPLICANT:

Mr. Abhinay, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Abhishek Attrey and Mr. Vikas Malhotra, Advocate for MoEF
 Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
 Mr. Suraj Prakash Singh, Advocate
 Mr. Mukesh Verma and Mr. Devesh Kumar Agnihotri, Advocate for UPPCB & MPPCB
 Mr. Sunny Choudhary, Advocate For M.P. Pollution Control Board
 Ms. Preety Makkar, Advocate for Puducherry
 Mr. G.M. Kawoosa, Advocate for State of J&K.
 Mr. S. Sukumaran, Mr. Anand Sukumar and Mr. Bhupesh Kumar Pathak, Advocates For Municipal Corporation of Greater Mumbai.
 Mr. Vijay Panjwani, Advocate with Mr. Bhupender Kumar, LA, CPCB
 Mr. E.C. Vidyasagar, Mr. Subhash C. Sagar and Ms. Jenniefer.
 Ms. Sakshi Popli, Advocate for NDMC & DJB
 Mr. Shibani Ghosh Choudhary, Advocate For State of Maharashtra (Urban Dev. Dept.)
 Mr. K. Enatoli Sema, Advocate for State of Nagaland & Nagaland PCB
 Mr. Guntur Prabhakar and Mr. Guntur Pramod Kumar and Mr. Prashant Mathur, Advocates for the State of Andhra Pradesh
 Mr. Devraj Ashok, Advocate for State of Karnataka
 Mr. Gopal Singh, AOR and Ms. Varsha Poddar, Advocate For State of Tripura
 Mr. Ashish Negi, Advocate for Ms. Richa Kapoor, Advocate for Punjab PCB
 Mr. Anil Soni, AAG along with Mr. Naginder Benipa, Advocate for the State of Punjab
 Ms. Aprajita Mukherjee, Advocate For State of Meghalaya
 Mr. Nishe Rajen Shander and Mr. Gajendra Khichi, Advocates for Kerala
 Mr. Shubham Bhalla, Advocate
 Mr. R. Rakesh Sharma, Advocate for State of Tamilnadu and Mr. M. Marutha Samy, Advocate
 Mr. Balendu Shekhar, Advocate For EDMC

Mr. M. Paikaray, Advocate for State of Odisha and Odisha Pollution Control Board
 Mr. Shibashish Misra, Advocate for State of Odisha
 Mr. Biraja Mahapatra, Advocate with Mr. Dinesh Jindal, LO, Delhi Pollution Control Committee
 Mr. Edward Belho, AAG with Mr. K. Luikang Michael and Ms. Elix Gangmei, Advocates for Municipal Corpn. Of Greater Mumbai.
 Ms. D. Bharathi Reddy, Advocate for State of Uttarakhand
 Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advocate For State of Telangana
 Ms. Yogmaya Agnihotri, Advocate for CECB
 Mr. Jogy Scaria, , Advocate for State of Kerala & KSPCB.
 Mr. Ajit Sharma and Mr. Mayank Aggarwal, Advocate for Agra Nagar Nigam
 Mr. Debarshi Bhuyan and Mr. Santosh S. Rebelo, Advocates for State of Goa and Goa State Pollution Control Board
 Mr. Shantala Sankrit, Advocate For Daman & Diu & Dadra & Nagar Haveli
 Mr. Jayesh Gaurav, Advocate for JSPCB
 Mr. Gaurav dhingra, Advocate for State of Uttar Pradesh
 Mr. Raj Kumar, Advocate with Mr. Bhupender Kumar, (LA) Central Pollution Control Board
 Mr. Raman Yadav and Mr. Dalsher Singh, Advocate
 Mr. Anil Grover, AAG with Mr. Rahul Khurana, Advocates for Haryana State PCB
 Ms. Sapam Biswajit Meitei and Ms. B. Khushbansi, Advocates for State of Manipur and Manipur PCB
 Ms. Aruna Mathur and Mr. Avneesh Arputham and Mr. Anuradha Arputham and Mr. Yusuf Khan, Advocate for State of Sikkim
 Dr. Abhishek Atrey, Advocate for Lakshadweep
 Mr. Rudreshwar Singh and Mr. Gautam Singh, Advocates for Bihar
 Mr. Pragyan Sharma, Mr. Ganesh Bapu TR and Mr. Shikhar Garg, Advocates for State of Mizoram and MPCB
 Ms. Puja Kalra, Advocate for North & South MCD
 Mr. Anchit Sharma and Mr. Satamita Ghosh, Advocate For Delhi Cantonment Board
 Mr. Sarthak Chaturvedi, Mr. Rohit Pandey AND Mr. D.N. Tirpathi, Advocates for Andman and Nicobar
 Mr. D.K. Thakur, Advocate for M.C. Shimla
 Mr. Harish Sharma, Advocates for State of Chhattisgarh
 Mr. Tayenjam Momo Singh, Advocate for Meghalaya SPCB
 Mr. Shuvodeep Roy and Mr. Sayoj Mohandas, Advocate for State of Assam and Assam Pollution Control Board
 Mr. Anurag Kumar and Ms. Sakshi Popli, Advocate for DJB & NDMC
 Ms. Priyanka Sinha, Advocate for State of Jharkhand
 Mr. Nikhil Nayyar and Ms. Smiti Shah Advocates for AP PCB and Telangana SPCB
 Mr. Suryanarayana Singh, Sr. Addl. Advocate General for State of HP
 Ms. Aagam Kaur for Ms. Hemantika Wahi, Advocates for the State of Gujarat

JUDGEMENT**PRESENT:****Hon'ble Mr. Justice Swatanter Kumar (Chairperson)****Hon'ble Mr. Justice U.D. Salvi (Judicial Member)****Hon'ble Mr. Bikram Singh Sajwan (Expert Member)****Hon'ble Dr. Ajay Deshpande (Expert Member)****Reserved on: 25th October, 2016****Pronounced on: 22nd December, 2016**

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

Mrs. Almitra H. Patel and another filed a public interest litigation under Article 32 of the Constitution of India before the Hon'ble Supreme Court of India at New Delhi. In this petition, the petitioner/applicant sought orders and directions for taking urgent steps to improve the practices presently adopted for collection, storage, transportation, disposal, treatment and recycling of Municipal Solid Waste (for short, "MSW") popularly known as "garbage" generated in various cities across India. This problem is of gigantic magnitude. Every single day, over one lakh tonnes of raw garbage is thrown along roads, waterways and wetlands just outside the city limits of India's 300 plus Class-I towns and cities. According to the applicant, no city or town takes end-point responsibility for hygienically managing its municipal solid waste. According to the applicant, it is absolutely necessary that uniform national standards and practices be adopted and remedial steps be taken on most urgent basis to avoid adverse health impacts on the citizens. The applicant has referred to various main cities of India

and the gravity of the problems arising from the indiscriminate dumping of MSW. The issue is of national significance and grave importance. Applicant has referred to the outbreak of plague in Surat in 1994 as well as outbreak of many epidemics like Hepatitis, Gastroenteritis, Malaria and Typhoid annually in different cities which are caused, inter-alia, by the extremely poor and at times non-existent sanitation and garbage collection and disposal practices employed by the local authorities. The raw garbage is dumped just outside the city limits on panchayat or revenue lands or highway shoulders, lakes, nalas and land of various PWD authorities. Referring to the city of Bangalore of which the applicant is a resident, it is stated that it is a typical example where garbage is dumped on both sides of every major approach road into the city for want of waste yards since 1987. The sites even if notified have not been utilised. Garbage is dumped at different points less than a kilometre beyond an unused waste-yard, garbage thrown on the roadside by municipal trucks spills directly into an adjacent waterway that serves 10 villages before reaching Yellamallappa Shetty tank which was the city's fall back water supply in drought years. The animals eat the waste including plastic. The applicant who claims to be a lifelong environmental conservationist has further averred that various State Governments and the local authorities are responsible for this extremely poor state of affairs prevailing in the life of citizens, affecting public health and this issue has been neglected for years. The Centre has power and the State Governments have delegated power and authority under

Section 5 of the Environment (Protection) Act, 1986 and/or under a constitutional duty and obligation to prevent environmental degradation and to ensure that the urban environment and surrounding areas are preserved, protected and improved within their territory. These respondents have to perform their primary duty of adopting proper measures to manage the disposal of MSW generated in its territory. Each of the State Governments/UTs have failed and are neglecting to discharge its constitutional and statutory obligation in relation to proper collection, handling, transportation and ultimately in the hygienic disposal or recycling of MSW. The Central Pollution Control Board (for short, "CPCB") which is the apex pollution control authority in the country has to frame guidelines and recommendations for management of the MSW but till date they have failed to do so. Whatever guidelines have been framed so far, have not been followed and implemented in the cities and municipalities and the Central and State Boards have not taken any steps to ensure its proper implementation. Thus, they have failed to perform their statutory duties. As per the 1991 census, Urban India constitutes about 26% of the country's population. It is stated that by the turn of this century one third of this country's population will reside in urban centres. The rate of urbanisation has gone up from 10.84% in 1901 to 25.85% in 1991 and at present 32.5% of India's urban population resides in just 23 large cities. Heavy collection of MSW, lack of infrastructural facilities has resulted in poor disposal of the waste. The applicant has classified the urban solid waste as follows:

- (a) Household waste: including wastes arising from the preparation and consumption of food, generally termed as “garbage”;
- (b) City waste: all matter accumulated from streets, parks, schools, etc. including paper, animal waste, street and drain waste, slaughter house waste;
- (c) Commercial waste: arising from offices, stores, markets, theatres, hospitals and restaurants. These include a high proportion of paper, cardboard and plastics;
- (d) Human excreta;
- (e) Industrial waste: Wastes generated from industries including metallic waste, construction material, etc;
- (f) Hazardous waste: Toxic substances generated at hospitals, at certain industrial units, etc.;

The deficiencies in dealing with the MSW and the MSW management systems have been pointed out as under:

- (1) Absence of the system for storage of waste at source.
- (2) Lack of facilities where households, commercial establishments and institutions deposit the waste.
- (3) Existence of open, unhygienic and inadequate communal waste storage facilities and inaccessibility due to long distances.
- (4) Streets and public places treated as receptacles of waste by the public, growth of slums, defecations on the street by urban poor and indiscriminate disposal of infectious waste by nursing homes on the street.
- (5) Loading of waste into open trucks manually.
- (6) Land filling operations carried out without any environmental impact analysis, and
- (7) Several areas particularly inhabited by the urban poor are either not served or are under served.”

2. Besides the above, the applicant has also pointed out that in India well managed sanitary landfill for disposal and treatment of MSW do not exist. Raw garbage is dumped by the municipalities in low lying areas by which there is every likelihood of it percolating and contaminating the groundwater resources of the city and its environs. Most places do not have waste yard sites. Planning by the

authorities is defective as the sites are not been provided and/or is maintained properly. The dumped waste including that of slaughter house waste is hardly subjected to proper treatment and these pollute and eutrophicate water bodies and pose serious health risks including outbreak of diseases such as malaria and filariasis. There is no effective collection and disposal method for toxic hospital waste as well.

Various studies have been referred to by the applicant in support of her contentions and it is also averred that studies including National Commission on Urbanisation report states that the MSW instead of treating just as garbage, if properly handled and managed can be a profitable exercise for municipalities if waste management is privatised. Garbage can yield revenue by way of composting with proper management. The CPCB published a report on 19th July, 1994 on good management practices of MSW. The solid waste management is an integral part of the environmental management not only of the city but of the country as a whole. Right of the citizens to clean and healthy environment guaranteed under Article 21 of the Constitution of India embraces the right to clean and well maintained city, streets, highways and environs. The Hon'ble Supreme Court of India years back in the case of *Municipal Council, Ratlam vs. Vardhichand*, AIR 1980 SC 1622 had held that it is not open for the municipalities to plead a lack of funds as a defence for not carrying out its duties. Indeed, a responsible Municipal Council constituted for precise purpose for preserving public health and providing better facilities cannot run away from

its principal duty by pleading financial inability. In the light of these facts, the applicant prayed before the Hon'ble Supreme Court of India, inter-alia, but primarily the following reliefs:

“A. That this Hon'ble Court may be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate Writ. Order or direction under Article 32 of the Constitution of India, ordering and directing –

(I) Respondent No. 1 in relation to Union Territories and the States:

(II) Respondent No. 2 to 26 in respect of respective States:

(a) To make budgetary provision for purchase/acquisition, fencing and development of adequate long-term waste-yards for all class-I cities, and annual budgetary provision for end-point MSW management at these waste-yards, in addition to cost-based budgetary funding for MSW collection and transport.

(b) To financially strengthen their Class-I cities by linking penal interest for non-payment of property taxes and similar municipal fees to 2% above prevailing bank rates of interest;

(c) To issue appropriate directions and order under Section 5 of the Environment (Protection) Act, 1986 to each and every Municipal Corporation/Municipality of Class-II cities, (having a population of over one lakh persons) falling within the respective territory/jurisdiction:-

(i) Identify, designate, notify purchase/acquire and operate waste processing sites adequate for use as waste-yards over a rolling 20 years period in respect of management and handling of MSW,

(ii) Forthwith discontinue the dumping of untreated MSW in areas other than designated sites,

(iii) Take appropriate steps and measures for the collection, storage transportation, hygienic disposal, treatment and recycling of MSW including proper transportation to the designated sites and well-managed placement there for conversion into re-useable/recyclable by-products such as compost, bio-gas, fuel pellets, etc.;

- (iv) Operate the MSW sites and ultimate landfills in a sanitary, scientific and nuisance free manner,
- (v) Direct all local bodies to implement the guidelines issued by the Central Pollution Control Board a copy whereof is annexed as Annexure-13 alongwith National Workshop recommendations in Annexure-14,
- (vi) Frame time bound schemes and/or fiscal instruments to organise, encourage, support and facilitate persons working as rag-pickers/waste separators to enable the recovery with dignity and without health hazard of reusable /recyclable material from MSW, along the lines of Ahmadabad's SEWA and similar initiatives in India and abroad.
- (vii) Ensure the exclusion of hospital and nursing home wastes from MSW and monitor or provide safe and sanitary incineration thereof,
- (d) To introduce legislation to regulate and/or ban and/or impose punitive eco-taxes on excessive packaging and on the use of non-recyclable packaging like Styrofoam, foil coated plastic, plastic-coated paper, or to impose take-back/recall conditions on such packaging,
- (e) To introduce or amend Municipal Acts to facilitate anti-littering fines or penalties."

3. The above Writ Petition was instituted in 1996. During its pendency, the Hon'ble Supreme Court passed various directions and orders requiring the respondents to consider low cost waste sanitization options. They were also directed to seek expert advice in respect of mosquitoes, flies and other vector control measures and to phase out the routine use of insecticides like DDT and BHC on garbage heaps and dump sites. The Hon'ble Supreme Court appointed Barman Committee and Barman Committee submitted its report on 16th January, 1998 and it was recorded in the order that none of the States appear to have any opposition to the report

of the Committee, in fact, with reference to the said recommendations the CPCB submitted the draft Management of MSW Rules, 1999 before the Hon'ble Supreme Court. Mainly cities of Mumbai, Calcutta, Delhi and Bangalore were the subject matter of these directions issued by the Hon'ble Supreme Court. In the case of *B.L. Wadhera v. Union of India and Ors.*, (1996) 2 SCC 594-595 it was observed by the Hon'ble Supreme Court that the capital of India is one of the most polluted cities in the world. The authorities, responsible for pollution control and environment protection, have not been able to provide clean and healthy environment to the residents of Delhi. The ambient air is so much polluted that it is even difficult to breathe in. Directions issued in *B.L. Wadhera's* case were not implemented and certain difficulties were pointed out. The Hon'ble Supreme Court observed that keeping Delhi clean is not an easy task but then it is not an impossible one either. What is required is an initiative with selfless zeal, dedication and professional pride, elements which are sadly lacking here. Thereupon, the Hon'ble Supreme Court issued ten directions for compliance by all concerned States/UTs. These directions primarily were issued to ensure that the streets, public premises, parks etc. shall be surface cleaned on daily basis, including on holidays. Collection of levy, recover charges and costs from any person littering or violating provisions of the diverse Acts, Bye-laws and Regulations to ensure proper and scientific disposal of waste in the prescribed manner to subserve the common good. Sites for landfills will be identified bearing in mind the requirement

of Delhi for the next 20 years within a period of four weeks by the exercise jointly conducted by Ministry of Urban Development, Government of NCT, Commissioner, MCD and Chairman, NDMC and other heads of statutory authorities like the DDA etc. Directions were given to take appropriate steps for preventing any fresh encroachment or unauthorized occupation in the public land for dwelling resulting in creation of slums. Eight number of compost plant site were selected by considering the quantity of solid waste which is required to be treated. Again emphasis was laid by the Hon'ble Supreme Court on two interrelated aspects, one dealing with the solid waste and other being clearing of slums. It was noticed that NDMC spends 35 per cent of its revenue on pay, against the world standards of 15 to 20 per cent and vacant lands act as an open invitation to encroachers. By noticing this in its order dated 24th August, 2000 the Court raised a query *vide* its order dated 21st November, 2001 as to whether the States mentioned in the order are willing to privatize garbage collection with an object to ensure cleanliness. In the order dated 4th October, 2004, the Hon'ble Supreme Court noticed that Municipal Solid Waste (Management & Handling) Rules, 2000 (for short, "Rules of 2000") have been enforced but not implemented properly. It also made a reference to the Steps taken by the authorities and their failure to comply with the directions/Rules. The Committee was also constituted to examine the status with regard to the waste to energy project in Lucknow and other similar projects were not started till date. *Vide* order dated 15th May, 2007, the Hon'ble

Supreme Court examined the report of the Committee and modified its earlier orders and permitted the Ministry of Non-Conventional Energy Sources to go ahead with the five pilot projects keeping in view of the expert Committee report. Order dated 15th May, 2007 reads as under:

“I.A. No.18 in W.P. (C) No. 888/1996:

Heard learned Solicitor General for Union of India and respective counsel for the parties.

The matter relates to solid waste management by various Municipal Corporations. After hearing parties, this Court on 6th May, 2005, observed that till the position becomes clear as regards the viability of the projects for generation of energy from municipal waste (by the bio-methanation technology), the Government would not sanction any further subsidies to such projects. This Court also directed that the Central Government to constitute a Committee of Experts and include therein Non-Governmental Organisations as well, to inspect the functioning of the project at Lucknow and its record and file a report before this Court. Pursuant to the said order, a detailed report has been submitted by the Expert Committee on 2.1.2006. Chapter IX of the Report contains its recommendations and conclusions. The Committee is of the opinion that the choice of technology for treatment of MSW should be made on the basis of quantity and quality of waste and local conditions. The Committee has opined that operational problems of one plant (Lucknow) should not form the basis to judge the efficacy of the particular technology and therefore, petitioner's objection to providing support (subsidy) to waste to energy projects may not be justified. We extract below some of the relevant conclusions of the Committee:

“...For all the projects in future, the issues such as Project Development including characterization of wastes, sizing of projects, technology selection and project design, management model and operational issues including close co-ordination between Municipal Corporation and the promoters, financial appraisal and approval of project should be adequately addressed.”

“In view of the problems of treatment and disposal of municipal wastes (solid and liquid)

in our cities and towns, which are only likely to increase with the growth of population and urbanization, an integrated approach to waste processing and treatment will be necessary, as brought out in the MSW Rules, 2000. Therefore, Instead of focusing on individual technologies, it would be desirable to take an integrated approach to the management and treatment of MSW, which would necessitate deployment of more than on technology in tandem.”

“The selection of technology for the solid waste management depends upon the quality of waste to be treated and the local conditions. Therefore, for the segregated waste, which is dedicated in nature, the selection of technology is relatively easier and its performance and success is beyond doubt. Therefore, it is desirable to have solid waste segregated at source, which is also required as per the MSW Rules, 2000.”

The Committee has recommended that projects based on bio-methanation of MSW should be taken up only on segregated/uniform waste unless it is demonstrated that in Indian conditions, the waste segregation plant/process can separate waste suitable for bio-methanation. It has opined that there is a need to take up pilot projects that promote integrated systems for segregation/collection/transportation and processing and treatment of waste.

In view of the report of the Committee and having regard to the relevant facts, we modify the order passed by this Court earlier and permit Ministry of Non-conventional Energy Sources (MNES) to go ahead for the time being with 5 pilot projects chosen by them, keeping in view the recommendations made by the Expert Committee and then take appropriate decision in the matter.

List the application for further orders after six months.

I.A.No.12: Permission to file rejoinder is granted.

I.A.NO.17: Petitioner to file its response to the application, if any, within four weeks.”

4. After passing this order, the Hon’ble Supreme Court *vide* its order dated 19th July, 2010, referred to the interim application,

which sought directions to the Development Commissioner, Government of NCT and other authorities to grant allotment of land at Bhatti Mines for development of landfill site in favour of MCD for disposal of Municipal Solid Waste. It was also noticed that certain NGOs were raising serious objections and were opposing the prayer sought for. For that purpose the Hon'ble Supreme Court transferred the applications (I.A. No. 12/2002, 13/2002 and 17/2002) to the Hon'ble High Court of Delhi, as it felt that the Hon'ble High Court would be in a better position to decide the matter, keeping in mind the local topography and local conditions and also observed that it may decide the matter expeditiously. However, the matter has not been finally disposed of yet. Then the Hon'ble Supreme Court *vide* its order dated 2nd September, 2014 transferred the Writ Petition No. 888 of 1996 to the Tribunal while passing the following order:

W.P.(C) No.888 of 1996:

This petition filed in public interest as early as in the year 1996 prays for the reliefs that are set out in as many as eleven pages of the petition. It is, therefore, unnecessary to extract the same in extenso. Suffice it to say that several orders have been passed by this Court over the past 18 years or so in regard to the prayers made in the writ petition. One significant development that has taken place pursuant to those orders is the framing of the Municipal Solid Wastes (Management and Handling) Rules, 2000 under the Environment (Protection) Act, 1986. The Rules, in turn, came to be framed pursuant to a report submitted by a committee constituted by this Court. With the framing of the Rules all that remains to be done is an effective enforcement of the said Rules and possible upgradation of technology wherever necessary. Enforcement of the Rules and efforts to upgrade the technology relevant to the handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of

dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010. The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions.

In the circumstances we deem it proper to transfer W.P.(C) No.888 of 1996 to the National Green Tribunal for further proceedings in the matter and for disposal in accordance with law after hearing all concerned. We make it clear that we have expressed no opinion on any of the aspects that have been raised by the petitioner or by those seeking to be added as parties to the case including an application made by the residents of Sukhdev Vihar, New Delhi, who are aggrieved by the construction of an incinerator, next to the residential colony, affecting the quality life of those residing there. We leave it open to the Tribunal to examine all pending applications and the prayers made in the same including applications for directions wherever the same are prayed for and to pass appropriate orders in accordance with law. Needless to say that anyone of the parties if aggrieved of any order passed by the Tribunal shall be free to seek appropriate redress by way of an appeal in this Court under the provisions of the relevant statute. In case of any difficulty or clarification as to the scope of the proceedings being transferred by this Court, we reserve liberty to the party concerned to seek appropriate clarification from this Court as and when required. With the above observations, we direct transfer of W.P.(C) No.888 of 1996 to National Green Tribunal, Principal Bench, New Delhi. We request the Chairperson of the Tribunal to bestow his attention to the subject which has been pending in this Court for a long time to ensure that a matter of considerable public importance like management of municipal solid waste does not remain neglected any longer.

CONMT. PET. (C) No. 8/2009 In W.P. (C) No. 888/1996:

In the light of the order passed by us in W.P. (C) No.888 of 1996, we do not propose to continue with these contempt proceedings which are dropped and the contempt petition disposed of.

SLP(C) No. 22111/2003:

This special leave petition is delinked from W.P. (C) No.888 of 1996 to be listed separately after four weeks.'

5. Not only the States with capital cities like Chennai, Bangalore, Calcutta, Mumbai and Delhi were respondents in the Writ Petition but all the States of the Union of India were made respondents in this petition. The State Governments filed their respective stands by way of reply affidavits to the Writ Petition before the Hon'ble Supreme Court and some of them also filed additional affidavits/additional replies before the Tribunal. Before we refer to the pleaded case of the respondents on the material issue, one fact needs to be noticed at this stage. In relation to State of Punjab, one *Capt. Mall Singh and Ors* had challenged the Environmental Clearance dated 30th August, 2012 granted by SEIAA for establishment of Integrated MSW Management facility and Engineered Sanitary Landfill facility at Mansa Road, Bhatinda, Punjab by way of an Appeal. The appeal was registered and numbered as Appeal No. 70 of 2012 titled as *Capt. Mall Singh & Ors v. Punjab Pollution Control Board and Ors*. The stand of the Pollution Control Board and other respondents including the State was that it had divided the entire State of Punjab into eight clusters and in each cluster the proposal was to establish a Waste to Energy Plant for collection and disposal of the Municipal Solid Waste and to generate energy through RDF. According to them, the Rules of 2000 were properly implemented. After hearing the parties concerned, by a detailed judgment, the Tribunal disposed of the case on 25th November, 2014. While declining to set aside the Environmental Clearance granted to the project, it passed detailed directions with regard to the establishment and operationalization

of the Waste to Energy Plant, as well as for implementation of the Rules of 2000 including, establishment of green belt and the manner in which waste should be disposed off at landfill sites. In light of the judgment pronounced by the Tribunal, the State Governments were required to file their response and if they had any specific suggestions in addition to the directions contained in the judgment of the Tribunal. In the case of *Capt. Mall Singh (supra)*, directions were given for better implementation of the Rules of 2000 and for establishment of Waste to Energy Plants, wherever required. Some but not all the States filed their response in furtherance of the order of the Tribunal.

6. Most of the States filed status report regarding the Model Action Plan for Municipal Solid Waste Management. Almost every State is following the cluster based system and are desirous to implement the Model stated in *Capt. Mall Singh (supra)*. Andaman and Nicobar Island is not following the cluster based system since it is not economically viable to them. It is commonly accepted that door to door collection of waste and its segregation at the source is one of the viable factors of proper management of Municipal Solid Waste. In this regard, public awareness programmes should be encouraged. The State of Haryana in their report submitted that they are also adopting cluster based approach for collection and disposal of waste, proposals are in place to incinerate waste with adequate greenery around the site. Decentralized waste processing is the plan and the waste deposited should be composted and primarily used as fertilizer rather than making Refuse Derived Fuel

(RDF). Establishment of such plants would work in favour of the environment as well as the State Government. Site selection for construction of such plants is a serious matter and remains a subject of controversy. The Tribunal *vide* its order dated 20th March, 2015 had directed that the RDF Plant in Karnal (Haryana), will be operated to its optimum capacity. Some of the States had also prepared Draft Action Plan on Municipal Solid Waste. According to most of the States, even the generation of RDF through Waste to Energy plant is in the initial stage of establishment and some States are working towards establishment of bio-gas plants in place of Waste to energy Plants.

7. The States were also called upon to specifically state and clarify whether there was any MSW disposal plant, either RDF or Waste to Energy or any other plant in the state or if even proposals in that behalf were formulated and were at an advance stage. The States of Tamil Nadu, Arunachal Pradesh, Sikkim, Madhya Pradesh, Chandigarh, Odisha submitted that Solid Waste Processing Plants in their State are in operation and consent to establish for Waste to Energy plant had been granted. There are three WTE Plants which are operating or are under trial run. In relation to NCT Delhi, reference can also be made to the recent order of the Tribunal in the case of '*Kudrat Sandhu Vs. Govt. of NCT & Ors.*', Original Application No. 281 of 2016, where the Tribunal has permitted the two WTE Plants to operate, subject to strict provisions and inspection by the High Powered Inspection Team consisting of representatives from CPCB, DPCC, MoEF&CC, IIT etc. In

Chhattisgarh, Solid and Liquid Resources Centre has been setup, with a proposal to set up Waste to Energy Plant in that State. In Lakshadweep, Bio gas Plant has been set up and is functioning. Master Plan for Gujarat has been made and a Memorandum of Understanding has been signed with UN Centre for Regional Development, Japan with regard to management of Municipal Waste. In Maharashtra, some Urban Local Bodies (for short, 'ULBs') have put up plants. In Sikkim, there is no Plant for segregation. Andhra Pradesh has 18 vermi composting plants.

8. We may also notice, that in furtherance to the various orders passed by the Tribunal, some of the States have submitted the status reports. State of Madhya Pradesh, in its report stated that 90% of the population still lingers under the poor waste management system and they have made a long term plan regarding handling of MSW. State of Rajasthan submitted that, the municipalities were in the process to develop secure landfill sites for disposal of MSW in accordance with Rules of 2000. Some of the States submitted the action plan for handling Solid Municipal Waste. In furtherance to the order of the Tribunal dated 5th February, 2015, State of Sikkim submitted the MSW Management Action Plan stating that they have adopted cluster based plan for urban centres, for management of wastes. They submitted about the standardisation procedure, mobile sanitation courts, management plan for institutional strengthening, etc. State of Chhattisgarh submitted a Model Action Plan for disposal of MSW. State of Manipur submitted that there is rapid growth in generation

of MSW which has not been matched by development of organizational capabilities of ULBs leading to severe strain on them and deficiencies in execution of this vital function. They have adopted integrated approach which involves all the stakeholders to deal with MSW. They are planning to adopt cluster approach, construct landfill sites and the DPR in that behalf had already been submitted. State of Punjab has adopted cluster approach and they are collecting waste and spraying it with disinfectant. Green belt is being maintained around the landfill sites. State of Gujarat has stated that they are not able to collect and dispose of the entire waste in accordance with the Rules of 2000. Efforts are being made by the corporations to convert MSW into eco-friendly beneficial end-product and useable material. Plastic is recycled and other waste is being utilized. According to the State of West Bengal, there are 128 Urban Local Bodies and have undertaken major steps like adoption of cluster approach after considering the proximity of ULBs involved in the concerned planning areas. There are serious problems with regard to absence of segregation of wastes at sources, lack of institutional arrangements in ULBs, lack of technical expertise, inadequate resource, lack of community participation, non-availability of sites, etc. State of Bihar has submitted its report along with modified Model Action Plan for proper implementation of Rules of 2000. Here, the municipal solid waste is not converted to an eco-friendly beneficial end product. In the annual report published by State Pollution Control Board of Nagaland for the year 2013-14 has reported that MSW is not collected in its entirety,

neither segregated nor disposed off in accordance with the Rules of 2000. They want to adopt cluster based approach and establish plants for disposal of waste. They are trying their best to comply with the rules. The State of Telangana has submitted that there is average an of 85% door to door collection of waste. 25% of waste segregation is done at household level, primary and secondary collecting points. No specific penalty for littering is provided. According to the State of Orissa, total quantity of MSW generated in the State is 2460 tonnes per day out of which ULBs are collecting 2107 tonnes per day. A solid waste management plant is operating. Only 70 ULBs have identified waste processing and disposal facility site but have not developed their sites, as a result, there is open dumping of MSW. The District Magistrate has been requested to prepare an action plan. Dadra and Nagar Haveli have submitted that the transportation and dumping of the waste is being done by the Silvassa Municipal Council through an outsourced agency. There is a MSW management plan which includes daily door to door collection of waste, segregation of waste at source into biodegradable and non-biodegradable, Technology involving Refuse Derive Fuel (RDF), compositing to be employed, etc. Plan also specifies that not more than 20-25% of waste would be allowed to be disposed off in the engineered sanitary land fill sites. In Delhi, there is generation of more than 14100 MT of solid waste everyday out of which it contains approximately 9600 MT of MSW which also has an element of inert & even C&D material. Out of 9600 MT of waste, even if all 3 WTE Plants operate for optimum capacity, in

terms of consent & Environmental Clearance granted to them, the city would be left with 4900 MT MSW per day, besides 600 MT silt from drains and road sweeping & 3900 C&D and inert waste. The dumping sites/landfill sites are in terrible conditions. State of Jammu & Kashmir, in furtherance to order of the Tribunal, submitted status report showing disposal, segregation and transportation of MSW. The State has also shown cluster approach but from the status report as well as the matters before the Tribunal it is clear that the State is not able to handle its MSW appropriately in accordance with rules. State of Haryana has submitted Management Plan and there is no door to door collection of MSW and they are making efforts to comply with the Rules of 2000. Haryana State Pollution Control has issued directions to ULBs for proper implementation of rules from time to time. The Central Pollution Control Board claims that it is in the process of formulating a national policy with regard to collection and disposal of MSW as a model policy to be adopted in the country. Emphasis has been given in the suggestive/indicative Management Action Plan for cluster approach. Other states have also submitted their Management Plan and indicated that they have approved the Plans and are in the process of taking effective steps for dealing with the MSW in their respective States. Most of the States including Goa is not collecting its entire MSW and cannot dispose of the same in terms of Rules of 2000. Goa Pollution Control Board also has plans for manual/mechanized sorting, material recycling centre, organic extrusion press, bio-methanization plant followed by Bio-gas plant,

in vessel composting and sanitary landfill. State of Tamil Nadu has prepared a draft policy on Integrated Solid Waste Management and it is in the process of approval by the Government. Some of the States including Meghalaya are in the process of preparing Draft Management Plan even at the District Level; however, the same is at the planning stage.

9. After referring to various orders of the Hon'ble Supreme Court of India, the Tribunal passed detailed directions in the order dated 20th March, 2015. The Tribunal also accepted the reports filed by the States adopting cluster approach and establishment of RDF. With regard to the directions related to collection, treatment and disposal of the MSW, the Tribunal rejected the contention raised on behalf of some of the parties, including MoEF&CC, that, a) RDF b) Waste to Energy Plant and c) the site for collection, treatment and disposal of MSW, should be de-centralized and that cluster system is not an appropriate remedy. The Tribunal noticed that it cannot overlook the limitations of the State in relation to availability of land, finances and geographical concerns. Economical and environmentally sound centralized operation of plants would not only be in the economic interest of the State and the people but would also serve the purpose of environmental protection and compliance with the Rules. The Central Pollution Control Board and MoEF&CC were also directed to prescribe specific standards for emission for insulators used for power generation. They were directed to prepare a consolidated document.

Vide the same order, the Tribunal also directed all the concerned States to file comprehensive affidavits within four weeks in light of the judgment of the Tribunal passed in Original Application No. 48/2013, *People for Transparency through Kamal Anand vs. State of Punjab* as well as in the present application i.e. 199/2014. It was also directed that in the event of non-compliance of the directions to file comprehensive affidavit, the concerned States would be liable to pay cost of Rs. 50,000/- and the concerned Secretary of the States would be present before the Tribunal, as a consequence thereof.

10. Thus, in furtherance of the order of the Tribunal dated 20th March, 2015, various States and even the Pollution Control Board of the States filed affidavits. According to the Punjab Pollution Control Board, there are a total of 163 ULBs which are generating MSW, 2 garbage treatment plants are operating and the State has formulated a program for management of the MSW in the ULBs and the State has been divided into 8 clusters. The State of Goa, submitted that it has formulated its action plan on the lines of the judgment of the Tribunal in the case of *Capt. Mall Singh* (supra). The State of Madhya Pradesh also stated that it has formulated a cohesive policy wherein the cluster based approach for effective solid waste management was adopted. The State of Karnataka filed affidavit stating that the State has introduced the program of “clean our city” with 100% door to door collection of waste with source segregation and the State has already procured land for waste processing and disposal of MSW. According to the State of

Arunachal Pradesh, MSW treatment plants were being operated for composting and fertiliser practices and efforts were being made to establish bio-gas plants on anaerobic composting. Necessary policy intervention was proposed to be framed to prevent unauthorized rag pickers and for a total prohibition on minor workers. Chandigarh filed an affidavit to state that the Municipal Corporation manages the waste in 56 sectors. There is door to door collection and proposal for two bio-methanation plants were in the works along with plan to purchase new machineries. State of Orissa claimed that its local authorities had invoked the 'Polluter Pays Principle' and had placed dustbins in 'jhuggy' colonies and the policy for rag pickers was awaiting approval from the Government. The State of Kerala took the stand that there was scarcity of land for setting up MSW management facilities and the model plant proposed by the State of Punjab may not be possible in the State of Kerala and it is proposing to adopt decentralized facilities and to promote disposal of MSW at source of generation itself. According to the State of Kerala, under the Kerala Municipality Act, 1994, it is the responsibility of the LSGIs to manage the MSW and the State cannot interfere with the same. The State Government is performing as a facilitator for helping the LSGIs to perform their functions. It is providing help in preparing detailed project reports to deal with MSW. In Gujarat, there are 159 ULBs and Nagarpalika Action Plan for 126 municipalities has been prepared, for awareness campaign and training program for safai karmacharis. Andaman and Nicobar Island submitted before the Tribunal that it has already established

RDF plant which is operational but not performing to its optimum capacity. State Government shall frame its policy with regard to collection of MSW from sites and then transportation of it to its designated places. The Government of Andaman and Nicobar has framed its policy with regard to collection, transportation and depositing the Municipal Solid Waste at the designated places. They have not put any restriction on use of RDF for power generation, however, they prefer that there should be composting of wet waste rather than generation of RDF. State of Andhra Pradesh has prepared a separate action plan to implement in a befitted manner the program for MSW by the ULBs. The proposal is to plan and execute a step by step procedure to achieve 100 % door to door garbage collection at source, segregation of wet and dry waste. State of Tripura submitted that there is scarcity of suitable land/site for cluster approach of MSW plants and even the available lands are inadequate and located geographically far apart from each other. State Government is considering Agartala based pilot project as first step that will cover the neighboring ULBs. State of Rajasthan stated that the Government is making every serious effort for implementation of the Rules of 2000 in the entire State and it has incorporated Section-226 to 236 in the Rajasthan Municipalities Act, 2009 for effective and proper enforcement of Rules of 2000 and for prohibiting littering. Policy guidelines, time-bound action plan envisage a period of five years (2015–19) for all 184 ULBs in the State. They have sought financial assistance from the Central Government under the Swachh Bharat Mission guidelines. State of

Himachal Pradesh has framed policy for door to door collection and there is only 1 local body whose population is more than 1 lakh i.e. Shimla. The Municipal Corporation has distributed two waste bins of green and yellow colour to all the households of the city for carrying out the segregation of waste at source. It may be noticed that in the MSW case relating to State of Himachal Pradesh, it has come on record that for a considerable time plant dealing with MSW was not working for dealing with MSW. In the year 2016, they have again awarded a contract to the project proponent to restart the waste to energy project at Shimla. It is undisputable that Shimla and its surrounding cities are facing acute problems in relation to collection and disposal of MSW which is being dumped anywhere and everywhere.

11. Since some of the States had not filed affidavits, the Tribunal vide its order dated 13th July, 2015 granted further time for filing of affidavits and noticed that the States/UTs should be directed to file compliance report to the suggestions submitted by the Applicant 'Almitra H. Patel'. M.A. No. 22 of 2011 which was pending before the Hon'ble Supreme Court of India was transferred to this Tribunal should also be dealt with on merits. The States of Tamil Nadu, Arunachal Pradesh, Sikkim, Madhya Pradesh, Orissa, Delhi and Chandigarh had filed their status reports/submissions. The State of Tamil Nadu submitted that there has been sanction of funds, discussion on the Draft Rules published by the MoEF, sensitization of Heads of the Departments on various provisions of Draft Rules and are planning for Integrated SWM project. State of Arunachal

Pradesh submitted that rapid increase in generation of MSW has not been matched by development of the organizational capabilities of the ULBs leading to severe strain on them and deficiencies in the execution of this vital function. Awareness programs were being introduced. The State High Powered Committee for Swachh Bharat Mission has already approved for release of fund to ULBs and proposals for setting up of treatment plants in a phased manner has been initiated. According to State of Sikkim, keeping in view the topography, door to door collection of the municipal solid waste is difficult and at present it is being carried out by the waste pick-up vans in most of the wards in the urban areas. Waste thus collected is then transported to landfill sites. Further, a compost plant has been designed to handle waste up to 50 Metric Tonnes and no RDF plant has been established there. It is also stated that there is need to have an integrated project involving all stakeholders i.e. Government agencies, private parties, public sector, corporate sector and institutions, to tackle huge piles of MSW that are suffocating the cities and towns in India. Sikkim has proposed setting up of a compost plant to deal with 50 MT of MSW and no RDF or bio-gas plant has been installed. The States are also considering the suggestions made by the Applicant as well as the model plants that have been approved by the different States. State of Madhya Pradesh submitted that it has made a comprehensive action plan for waste management. The local bodies have started 100% door to door collection of waste as well as composting but no scientific disposal is being done as landfill site has not been

constructed being financially and operationally unviable. The land has been allotted for landfill facilities in almost all towns having a population of over 50,000. Chandigarh again has a massive issue in relation to disposal of the MSW, despite having garbage processing plant which generates RDF. It has not been able to deal with the disposal of the waste in accordance with the Rules and there is huge waste generation. In the State of Orissa, there are 111 ULBs which are collecting their waste on their own or by engaging private agencies or a combination of both. ULBs spend about 40% of the octroi grant on O&M cost of SWM services. Scientific disposal is not yet practiced by the ULBs. Puri Municipality is generating around 30 TPD of municipal solid waste and bio-compost plant, still the waste is not being handled satisfactorily and in accordance with the Rules. Delhi has prepared an action plan for MSW including plants for disposal of the waste. The corporations and other authorities are holding meetings to effectively deal with the issue.

12. Upon analysis of the above status reports, affidavits and documents placed on record, one fact that becomes more that evident is that all the States are at a planning stage and execution is lacking at all relevant stages, whether it is the beautiful city of Chandigarh or nature's gift to earth-the city of Srinagar or be it the capital of our country, nowhere the generated MSW is adequately and appropriately collected, segregated, transported and disposed off in accordance with Rules in force, at all the relevant times. Chandigarh is generating a waste of approximately 370 MT per day whereas its garbage processing plant is processing approximately

270 MT per day which is converted into RDF. Waste from other areas including other adjoining States is being sent there, which causes disputes between the project proponent and the authorities concerned, including Corporations, which is unavoidable. The plant is not working effectively and in fact the project proponent proposes to close-down the plant by 31st March, 2017. There is not a gradual but a rapid increase in generation of waste in all these places including Chandigarh. There is an absolute necessity to frame proper planning mechanism and implementation programs to deal with the waste in accordance with the Rules and to ensure that it does not cause environmental and public health problems. Indiscriminate dumping of waste anywhere including on-site would result in mosquito breeding, odour generation due to methane gas and other allied problems which would directly and adversely affect the environment and public health. Delhi is generating, nearly, 14100 MT of Solid Waste everyday. This Solid Waste contains, nearly, 9600 MT of municipal solid waste including inert, C&D waste and different kinds of wastes in the form of dust and ash. Out of this, nearly 4900 MT of waste remains untreated everyday and has to be dumped at one site or the other. The landfill/dumping sites have already exceeded the prescribed limit and height. They have a height of 40 meters as opposed to the permissible limit of 20 meters. These landfill/dumping sites are a source of serious air pollution, pollution of ground water by leachate and is also a consistent and direct source of various diseases. There is hardly any place at plants to deal with C&D and

inert waste squarely and in accordance with Rules of 2000. State of Himachal Pradesh has no functional plant which is capable of dealing with the generated MSW. Shimla alone generates 86.01 MT of Municipal Solid Waste per day and is unable to treat even major part thereof. Thus, it is throwing its MSW at the site and/or anywhere and everywhere. It seriously and adversely affects the environment and ecology of eco-sensitive areas. Srinagar is generating 350-360 MT MSW per day and the waste from that area and from the surrounding areas is just being dumped and that too in an unscientific and indiscriminate manner at the site or anywhere and everywhere. The city of lakes, natural beauty has a stinking site for which the public at large is complaining everyday and is genuinely aggrieved by the adverse impacts on public health in that area. Similarly, all other States have prepared action plans that are being sent for approval to the Government. They have prepared DPRs which again are in the decision making process and they are planning to construct/install plants of different kinds. All these are at planning stage now for quite a long period. Though, it may be well intended but it still has to enter into the phase of proper execution. Environment and public health has to be the prime concern of the State and Central Government and limitations of different kinds cannot be said to be impediments to the fundamental rights of the citizens as they have the right to clean and decent environment; free of any restrictions or limitation under Article 21.

13. Almitra H. Patel had filed the writ petition before the Hon'ble Supreme Court of India in the year 1996. Various directions had been passed by the Hon'ble Supreme Court directing the State Governments to take expeditious and effective steps in accordance with law for dealing with the menace of MSW to protect the environment and public health. It is unfortunate that none of the States have implemented and enforced the directions as directed and intended by the Apex Court and the Tribunal. This matter has been pending before the Tribunal since 2014 and till date no State has been able to demonstrate that it has or any part of the State has any place which operates a system or a plant which would segregate, transport and dispose of the MSW in accordance with the Rules of 2000. There are hardly any plants which have the capacity and are capable of dealing with entire MSW generated in that area by any of the scientific and accepted methodology provided under the Rules i.e. composting, bio-methanation, RDF and WTE. Such a state of affairs cannot be permitted to continue indefinitely and every State Government, the Centre and all the Public Authorities should take immediate steps to ensure proper collection and disposal of MSW. With the increase in population, generation of MSW is going to increase. As per the 2012-13 report of the CPCB, the country generates 133760 MT municipal waste per day of which 91152 MT per day is collected and 25884 MT per day is treated. Remnant of it either remains uncollected or untreated. This is a significant indicator of the extent of this serious human and environmental problem. If such a huge quantity of waste remains

uncollected or untreated then that obviously would mean that the remnant waste is spread anywhere and everywhere and is bound to result in adverse impacts having far reaching consequences on human health and the environment. What needs to be seen further is that these figures are of 2013 while we are already in 2016. With the passage of time, generation of waste has tremendously increased. Current data of waste generation in our country has not been placed before us. It may be noticed here that even the data provided by CPCB is not based on any physical verification but in turn is based on the data collected by the ULBs. It was fairly conceded before us during the course of the hearing that none of the Corporations have ever physically verified the quantum and/or quality of the waste generated in any district of any State much less for the entire State. They have proceeded with a presumptive figure that per-capita generation of MSW is nearly 450 grams per day in major towns while per capita MSW generated from small towns is 200-300 grams per day. Again as per annual report of the CPCB for the year 2014-15, the waste generated per year was stated to be 141064 TPD out of which 127531 TPD is collected and only 34752 TPD is subjected to treatment. The CPCB report for the year 2014-15 has revealed that out of 7935 ULBs as per 2011 census only 389 ULBs have established compost/vermi-compost sites. Open dumping continues in 7327 ULBs, which means that practically 92% of the ULBs are dumping its MSW in open areas. Having referred to the gravity of the issues relating to MSW and the ineffective and regressive steps taken by the respective State

Governments, we would have no hesitation in stating that all concerned need to give up the attitude of laxity and casualness and become aggressive and effective in the implementation of the mechanism and methodology of collection and disposal of MSW for the entire country. The installation of different mechanisms including establishment of plants is the need of the hour as it is either impractical or not possible to increase the number and size of dumping sites throughout the country. In capital cities of the States and all major towns, land is very scarce and there are financial constraints as well. On the contrary, there is rapid increase in generation of MSW. This means that methodologies which are scientifically acceptable, performable and in consonance with the Rules have to be established without any further delay and this should be the subject of utmost priority for every State. The regulatory authorities like, CPCB, MoEF&CC have to become more aggressive in ensuring that the provisions of law in relation to collection and disposal of MSW are enforced and implemented without default and delay now. They are vested with wide powers including those of punitive nature and time has come to take recourse to such measures and not leave the matters to the sweet will of the implementing agencies. It is evident that any further delay or deferment in enforcing of the Rules of 2000 would lead to environment and public health disasters resulting from adverse and negative contribution of the public authorities and the officers manning the said authorities. The time has come when the officers/authorities who are persistent defaulters must be dealt

with in accordance with the law and be penalized for their attitude and defaults.

14. India is one of the highest generators of MSW in the world. The MSW generated in our country has two very distinguishable features. Firstly, the quantum of waste that is generated and secondly the composition of waste generated is very typical. The waste generated primarily has the following composition:

a. Organic Waste	51%
b. Inert and no-organic	31.5%
c. Recyclable	17%
d. Average Moisture content	47%

This peculiar and huge quantity of Municipal Solid Waste needs to be processed scientifically and purposefully. Indiscriminate dumping of waste at any site would defeat the object of clean environment. Unless treated or processed scientifically in accordance with rules governing the subject there is bound to be degradation of environment and public health. This had evoked the law makers to frame the Rules of 2000.

15. The Rules of 2000 in practice were found deficient in various aspects. One of the main drawbacks of these Rules of 2000 was that it did not provide for and deal with certain basics of waste management. These rules did not provide for effective implementation and fixation of responsibility in regard to management and disposal of waste. Various improvements and amendments to these Rules were suggested by the Applicant in the

present case as well as by Applicants in other similar cases. All these cases were dealing with the management, collection and disposal of different kind of wastes. MoEF&CC had submitted before the Tribunal from time to time that it was undertaking the exercise for enacting the new set of Rules.

16. The said Ministry on 3rd June, 2015, published in the Gazette of India, the Draft of Solid Waste Management Rules, 2015. Objections were invited to these Draft Rules and parties were required to file their objection before the expiry of 60 days from the date of publication of the Draft Rules. The Applicant in the present case, was also directed amongst others to file her objections/suggestions to the draft Rules before the Ministry which the Applicant did. Finally, the Solid Waste Management Rules, 2016 (for short, "Rules of 2016") were notified on 8th April, 2016. The Rules of 2016 have a very elaborate definition section, inter-alia, but importantly they define 'domestic hazardous waste' to mean discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge, etc. generated at the household level. 'Waste hierarchy', means prior order in which solid waste is to be managed by giving methods for prevention, reduction, recycling, recovery and disposal, with prevention being the most preferred option and disposal in landfills being the least. These definitions were included for the first time. Rule-4 onwards, the duties of various stakeholders were spelt out. Rule-4 imposed the duty on waste generators. It required the waste

generators to segregate waste and dispose of it as provided for, not litter waste and pay user fee. Bio-degradable waste was required to be disposed of at the premises by the prescribed methods. Rule-5 provided for duties of MoEF&CC. It was required to monitor implementation of these rules and constitute a Committee for the same. It had the discretion to co-opt experts, if needed.

17. The Committee constituted under Rule-5(2) shall meet atleast once in a year to monitor and review the implementation of these Rules. In our considered view, the period postulated under these Rules is wholly inadequate. The meeting of the Central Monitoring Committee should be held more often to make the supervisory role of the Committee more effective and result oriented.

At the central level the Rules provide for duties of Department of Fertilizers, Ministry of Chemicals and Fertilisers, Ministry of Agriculture, Ministry of Power, Ministry of New and Renewable Energy Sources. These duties primarily relate to co-ordination with the State Governments and Union Territory Administration to review the measures taken by the State and Local bodies and help them to improve the steps taken to implement these Rules such as undertaking training for capacity building, formulation of national policy and strategy and scientific guidelines for dealing with MSW, to provide market development assistance on city compost and ensuring promotion of co-marketing of compost with chemical fertilisers, to provide flexibility in Fertiliser Control Order for manufacturing and sale of compost and propagating the utilisation

of compost on farm land, setting up of laboratories to test quality, issuing suitable guidelines for maintaining quality of compost. Ministry of Power should decide tariff or charges for the power generated from the Waste to Energy plants based on solid waste and ensure compulsory purchase of power generated from such WTE plants by the Distribution Company. The Ministry of New and Renewable Energy Sources should provide appropriate subsidy or incentives for such Waste to Energy plants. The Rules also contemplate duties at the State level. The Secretary, State Urban Development Department in the State or Union Territory through the Municipal Commissioner or Director Administration or Director of Local Bodies has to perform the duties stated under Rule-11. It has to prepare policy for waste management and ensure implementation of the Rules, capacity building for local authorities, registration scheme of rag pickers, notification for buffer zone, issuing directions for town planning authorities for making provisions for SWM, sanitary landfill and directing developers to set-aside area for SWM. The duties and responsibilities under the Rules do not restrict themselves to the State projects but even the District Magistrate or District Collector are obliged to perform the duties which shall help facilitate setting up of SWM facilities in tandem with local authorities and review performance of local bodies. It even goes to the Panchayat level and they are also to perform similar functions.

18. The CPCB and SPCB have also been directed to perform the stated duties and functions under Rules 14 and 16 of the

Notification. These primarily relate to enforcement of the Rules, monitoring of environmental standards and their compliance, co-ordination between the Central and the State Boards, issuance of requisite guidelines. In terms of Rule-15, duties have been cast upon the local authorities and village Panchayats to establish centres for proper and safe disposal of, storage of waste and its transportation, etc. Duties have been imposed upon manufacturer or brand owners of disposable products and sanitary napkins and diapers and the industrial units located within one hundred km from the refused derived fuel and waste to energy plants based on solid waste. The industries were required to use the RDF generated from plants. This obligation was to be discharged within six months from the date of the Notification of the Rules which is long over. The Rules also provided detailed criteria for setting up solid waste treatment and facilities plant. The criteria have been specified for waste processing, waste management in hill areas and waste to energy process. It also gives specifications for landfills and other matters in relation to composting treated leachate insulation, processing treatment and monitoring of solid waste.

19. Rule 22 provides time frame for implementation. The authorities are required to create the necessary infrastructure and perform directly or through engaging agencies in the activities specified in that Rule within the time mentioned therein. This period varies from one year to five years with reference to various activities including setting up of various plants and sanitary landfill sites, etc. The State Level Advisory Committee has to be constituted

within six months in terms of Rule 23 which again is long over. The landfill operations should adopt the methodologies which are pollution preventive. Criteria for Ambient Air Quality, monitoring has to be specified. Schedule-I deals with specifications for sanitary landfills, while Schedule-II deals with the standards of processing and treatment of solid waste.

20. The apparent lacuna that emerges from the bare reading of these Rules of 2016 is that there are no punitive consequences for violation or non-compliance of these Rules. In absence of such provisions, the very purpose of these Rules will stand defeated. Enforcement of such regulatory regime is of essence. If there is no serious and effective implementation of these Rules, then they will not be able to achieve the noble goal of prevention and control of environmental degradation resulting from MSW. These Rules have been framed in exercise of powers vested in the Ministry under a delegated legislation. The Rules have been enacted under Section 3, 6 and 25 of the Environment (Protection) Act, 1986. The violation of the directions, rules and provisions is made punishable under Section 15 of the Act of 1986. Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued there-under, shall, be liable for punishment with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, or higher punishment in the case of repeated failure. It is for this reason that no specific rule has been framed by the Ministry. It is obvious that the punitive provisions contained in Section-15 of the

Act would come into play the moment there is violation, non-compliance or failure to comply with the directions, orders, rules framed and issued under the provisions of the Act of 1986.

21. Rule 21 of the Rules of 2016 provide for criteria for Waste to Energy process. This rule requires that non-recyclable waste having calorific value of 1500 K/cal/kg or more shall not be disposed of on the landfills and shall only be utilised for generating energy either or through refuse derived fuel or by giving away as feed stock for preparing refuse derived fuel. High calorific waste shall be used for co-processing in cement or thermal power plants. The local bodies or an operator of a facility or an agency designated by them proposing to set up Waste to Energy plant of more than five TPD processing capacity has to move an application in Form-I to the Pollution Control Board for authorisation. Such application is to be dealt with and permission granted within sixty days. It is on record before the Tribunal that plastic paper and glass constitute nearly 17% of the waste. Plastic wastes including non-recyclable plastic for a high calorific value are suitable for MSW to energy plant. Of course, some plants have already been set up which are generating energy by mass burning. They do apply some degree of segregation but there are certain problems associated with such mass incineration like:

- i. Low calorific value, as it is mixed up with organic wet waste.
- ii. High moisture content
- iii. Presence of inerts like stones, sand and soil

- iv. High input of energy for the incineration process to take place at high enough temperature
- v. Problem of waste streams being heterogeneous resulting in incomplete combustion efficiency of furnace to maintain adequate high and uniform temperature throughout the furnace during the residence period of the waste thereby possibility of release of toxins like dioxins and furans.
- vi. Production of high ash content into burnt residue due to the presence of inerts.

22. However, despite the above, the plants which are having a very effective mechanism for segregation and are putting through boilers the waste as fuel for generating energy can also perform while maintaining requisite standards of emission, etc. The criteria under the Rules of 2016 primarily talks about power generation through RDF. As already indicated, there are following techniques or processes for effective management of the SMW:

1. Bio-methanation
2. Composting
3. Waste to RDF, RDF to energy and
4. Direct mass incineration for power generation.

Whichever of the above processes are found to be suitable to the concerned stakeholders, the same could be adopted. There may be cases where more than one of the above processes are collectively utilised for generation of power and/or monitoring the solid waste, for instance, waste to RDF and then using RDF for

generation of power. In a plant from waste to RDF, compost and/or bio-methanation may be used. This would depend on a large number of factors. The Rules do provide for the criteria but not comprehensively and in relation to all the processes. On the contrary, there are cases of direct waste to energy plants but in such plants, greater caution has to be taken for preventing pollution of air and the environment. They require better technology and more effective supervision to ensure compliance of the relevant laws. Rule-21 does contemplate that the plastic and non-recyclable waste, etc. which has high calorific value as provided under Rules would be used directly for power generation and/or through RDF.

23. For establishment and operationalization of any process founded on any technology, the first and foremost requirement is a comprehensive criteria for selection of appropriate solid waste treatment technology. In addition to what has been stated in the Rules, there are various factors. We may herein indicate few of them. They are not exhaustive.

- (i) Availability of land
- (ii) Quantity of waste
- (iii) Quality (characteristics) of waste i.e. inert content, moisture content and more significantly, the calorific value.
- (iv) Financial viability: funding opportunities, viability gap funding (associated technology constraints, if any).
- (v) Segregation practices (efficiency of segregation, particularly to segregate the hazardous and toxic industrial waste, by identification of industrial pockets).

- (vi) Market availability for various products/outputs like biogas, electricity, RDF, fly ash, etc.
- (vii) Availability of buffer zone.
- (vii) Waste management philosophy (centralized/ decentralized, common or regional plant)
- (viii) Capacity (financial and infrastructure) of Local body to collect, segregate and transport the waste.
- (ix) Possibility of establishing dedicated brick manufacturing plant.

24 Generated waste could be converted, upon proper segregation to RDF which has a double advantage. Firstly, the RDF could be used by the project proponent in its own plant for generation of power. The other benefit could be that RDF could be sold as fuel to cement or power plants in the open market.

25. We may also notice here that the Rules of 2016 are in furtherance to the Waste Framework Directive of the European Union. It has a direct relation as well as nexus to International Framework on MSW. Certain definitions and rules relating to imposition of duties are part and parcel of the international regime as well.

In the European Union, the *Thematic Strategy on Waste Prevention and Recycling, 2005* resulted in the revision of the *Waste Framework Directive (2006/12/EC)*, the cornerstone of EU waste policy. The Directive introduces a five-step waste hierarchy where prevention is the best option, followed by re-use, recycling and

other forms of recovery, with disposal such as landfill as the last resort. The directive includes Extended Producer Responsibility, which makes producers financially responsible once their products become waste, providing them with an incentive to develop products which avoid unnecessary waste and can be used in recycling and recovery operations. An example of producer responsibility is the 'Green Dot' system currently in operation wherein producers placing material on the market pay a levy for the collection and recycling of a related amount of waste material. This forces them to consider the whole life cycle of the goods they produce. This establishes an encouragement to apply the waste hierarchy in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste came.

Waste prevention is becoming more and more important as the global population increases and we eat away at our finite supply of natural resources.

One of the key tools being used to encourage waste prevention is eco-design, which focuses on environmental aspects during the conception and design phase of a product. Eco-friendly products should be made using recycled secondary raw materials and should avoid the use of hazardous substances. These products should consume less energy during the use phase and should be able to be recycled once they have been discarded. Waste prevention is closely linked to improving manufacturing methods and influencing

consumers so that they demand greener products and less packaging.

Waste management strategies shifted from landfill towards a combination of recycling and incineration, and in some cases also mechanical-biological treatment. Many countries use ‘pay-as-you-throw’ schemes (i.e. fees based on the weight or volume of the waste as an economic incentive for households to recycle their waste). All the countries that show landfill rates well below the EU-28 average of 28 % have either banned landfill of biodegradable or mixed municipal waste, or implemented a ban combined with a landfill tax of at least EUR 30/tonne.

26. As per the Buffer zone specifications in the *National Guidelines for Hazardous Waste Landfills* in Canada, the waste fill area of an engineered hazardous waste landfill facility should be completely surrounded by a buffer area that is established and managed according to the following guidelines provided therein:

- a) At every point, the buffer area should extend beyond the distance calculated for a reasonable contaminant travel time in the groundwater or beyond a reasonable width.
- b) The buffer area should be sufficient to ensure that the land filling operation does not have any unacceptable impacts outside the site (such as surface runoff, the spread of litter or vermin, the escape of leachate, or the subsurface migration of landfill gas).
- c) The buffer area should accommodate all performance monitoring sites and still be able to implement contingency measures inside the property boundary if necessary.
- d) The buffer area should either be
 - (i) not planted with any vegetative screening that would increase the rate of contaminant travel in the buffer area, or

- (ii) widened to allow for an increase in contaminant travel due to plantings.
- e) Encroachment onto the buffer area should be avoided for a minimum period of time (such as 25 years) following the completion of post-closure care. Jurisdictions of authority may have specific numerical criteria regarding buffer areas and should be consulted regarding their specific requirements.

Within the legal boundary of the engineered hazardous waste landfill facility site, a buffer zone should be provided around the perimeter to act as a visual screen and a noise barrier among other functions. In addition to the above, the following should also be noted:

- The buffer zone should also contain a site access road, site services and buildings, groundwater monitoring wells and landscaping.
- The width of the buffer zone, the visual screen and the noise attenuation features may vary according to land use, local regulations and the proposed contingency systems
- Access to the site should be strictly controlled. Both incoming and outgoing traffic should pass through a single control point for: manifest, movement document or shipping document verification; waste sampling; and any other regulatory or administrative actions.
- Appropriate signage, signals and lighting should be used to direct the flow of traffic on the site (see Appendix C).

27. The International Municipal Solid Waste scheme may not be applicable squarely to the prevailing municipal solid waste conditions present of our country. As already noticed, the quantum as well as the characteristics of the municipal solid waste in India is quite distinct. The waste collected consists of variety of wastes like the domestic waste, wet waste, green waste, inert C&D waste, dust and ash. Normally, the waste collected is not segregated at source. Proper segregation is a condition precedent to scientific and proper disposal of municipal solid waste in accordance with the Rules in

force. Direct incineration of the segregated wastage for power generation is one of the accepted methods of processing the mixed waste. The Rules of 2016 do deal with various aspects of management and disposal of municipal solid waste in greater detail. The Rules of 2016 are still deficient and non-specific in some areas. The success of effectiveness of any regulatory regime is directly dependent upon the extent to which they are implemented at the ground level. After and even prior to the coming into force of the Rules of 2016, various courts and this Tribunal have issued directions with regard to the management and disposal of municipal solid waste. The Hon'ble Supreme Court of India in the case of *M.C. Mehta* (Non-Conventional energy and Agra Heritage matter) *v. Union of India and Ors.* (2003) 10 SCC 719 while dealing with the Rules of 2000, directed that the Rules should be strictly complied with. The Court also recommended the States to take appropriate action against concerned officers who fail to discharge their duties in accordance with the Rules and even directed removal and clearing of unauthorized encroachments within a week of the order. Further, in the case of *Lakshmi Narain Modi v. Union of India* (2013) 10 SCC 227, the Hon'ble Supreme Court directed review of the performance of Committees constituted for proper implementation of the provisions of relevant legislations with regard to the transportation of animals, maintenance of slaughter houses, effluent and solid waste disposal. The guidelines were directed to be framed by the MoEF&CC and to implement the provisions of the Act. In cases of *Irfan Ahmed v. Nawang Regzin Jora*, [2015 (1) ALL

INDIA NGT REPORTER Part 2 31] and *Mohali Industry and Commercial Association v. State of Punjab*, [2015 (1) ALL INDIA NGT REPORTER Part 3 124], the Tribunal passed detailed direction in light of the Rules of 2000 with regard to the landfill site. The Tribunal found that presently the site was neither constructed nor maintained nor operationalized in accordance with the Rules. The Court also invoked the Polluter Pays Principle and directed the Corporation to pay compensation for restoration of environment on account of violation of the Rules of 2000. The directions were issued with regard to making the plant operational and to create green belt around the plant. The directions were also passed with regard to the deposit and dumping of waste strictly in accordance with the Rules of 2000. The Jammu and Kashmir Pollution Control Board was directed to grant consent to construct and operate a plant to the Corporation expeditiously and in accordance with law. In the case of *Mohali Industry Commercial Association* (supra), the Tribunal while declining to issue prohibitory orders for closure of the dumping site, issued direction for proper collection and disposal of the waste, in accordance with Rules of 2000. Keeping in view the Principle of Sustainable Development, it permitted the use of the site in accordance with rules till the Municipal Solid Waste Plant was established and made operational. Besides this, certain regulatory directions were also passed in the judgments.

28. In the case of *Kudrat Sandhu v. Govt. of NCT of Delhi and Ors.*, Original Application No. 281/2016 decided on 2nd December, 2016, the Tribunal observed that the collection and disposal of MSW was

one of the material components for keeping the environment decent and clean, which in turn was a Fundamental Right of the citizens within the ambit of Article 21 of the Constitution of India. Noticing that MSW is one of the most serious pollutants in our country, particularly in metropolitan cities like the NCT of Delhi, it was obligatory upon the municipal and other authorities to ensure that the waste is collected, transported and disposed of in accordance with the Rules of 2016. In that case, the Tribunal was primarily concerned with the operationalization of the two Waste to Energy plants which had been set up at Ghazipur and Narela in Delhi. Out of the total generated waste of 14,100 metric tonnes per day, these two plants have the capacity of 2000 metric tonnes per day. The plant at Ghazipur was receiving waste of only 800 metric tonnes of municipal solid waste while the plant at Narela-Bawana was receiving full capacity waste of 2000 metric tonnes. Out of this, up to 20 per cent was C&D waste, mixed with the municipal solid waste.

29. From the above two factors, it become evident that, firstly, the waste generated is a mixture of variety of other wastes including the waste which may not be acceptable in terms of the installed technology and secondly, that the plant at Ghazipur is underutilized. These plants generate fly as well bottom ash which is presently being dumped at a site within the plant or is being taken to another dumping site. Another important issue that was raised in the case was with regard to mismanagement of MSW in Delhi and the terrible conditions that prevail in relation to

landfill/dumping sites. The MSW generated is expected to be 16500 MT per day approximately. The Tribunal by a detailed order and upon considering the necessity for operating waste to energy plants passed the following directions:

1. "We direct all authorities concerned to ensure that the waste to energy plant at Narela and Ghazipur operate to their optimum capacity in accordance with law, in terms of the conditions of consent to operate order granted and the environmental clearances.
2. All the Local Authorities and the Development Authorities shall ensure that segregated municipal solid waste is supplied to the waste to energy plants in Delhi in accordance with terms and conditions of their Agreement.
3. The plant at Ghazipur is presently receiving only 1000 MT of mixed municipal solid waste out of which 200 metric tons is excluded as inert and Construction and Demolition debris (in short 'C&D') waste thus, leaving 800 MT of mixed waste to be processed in the plant for generation of energy. This plant is capable of manufacturing Refuse Derived Fuels (in short 'RDF') and then use the same for marketing purposes or entirely and partly for generation of energy within the plant. We direct East Delhi Municipal Corporation to supply immediately, at least 1500 MT, of municipal solid waste, out of which upon exclusion of segregated inert and C&D waste, at least 1300 MT of waste should be available to the plant for the purpose of manufacturing of RDF and generation of energy. The plant in terms of consent to operate can process 1300 MT of municipal solid waste while it has a capacity of 2000 MT of waste.
4. We grant liberty to the plant owner to approach Delhi Pollution Control Committee for operating with increased capacity of 2000 MT. If such an application is filed, the Delhi Pollution Control Committee shall dispose it with utmost expeditiousness, in any case, not later than two months from the date of filing of such application, in accordance with law.
5. The C&D waste plant at Shastri Park is ready to operate, in all respect. We direct the Project Proponent to approach all the concerned Authorities and complete all the requirements of law including consent to operate and Environmental Clearance, if required. All the

authorities concerned including Delhi Pollution Control Committee and NCT, Delhi shall fully cooperate and ensure that this plant becomes operative at the earliest, in any case, not later than six weeks from today.

6. We make it clear that we are not issuing directions to any Authority to grant consent/permission if the plant is not entitled to perform in accordance with law.
7. The plant at Narela is a kind of self-contained plant as it has its own landfill site adjacent to its premises to dump inert waste. It is the exclusive responsibility of the Project Proponent. It has a capacity of 2000 MT/day processing of municipal solid waste and it is presently receiving 2000 MT of municipal solid waste. Out of this, as already noticed, the plant is getting about 20% of inert and C&D waste which leaves the plant with approximately 1600 MT of municipal solid waste. Thus, we direct the Corporation to permit the Project Proponent to collect waste to the extent of 2400 MT/day so that it can operate to its optimum capacity after segregating inert and C&D waste. The Corporation and the Project Proponent is ad idem that the Delhi Electricity Regulatory Commission has fixed tariff of power charges @ 7.43% per unit. Furthermore, revenue sharing shall be effective between the parties @ 3% but from the date they commission generation of power. This, however, is an interim direction without prejudice to the rights and contention of the parties. Under the agreement between the parties dated 17th July, 2009, clause 12.2 is the arbitration clause for resolving dispute between the parties. The Project Proponent or the Corporation, as the case may be, are at liberty to invoke arbitration proceedings in accordance with the agreement and the rate and date both for revenue sharing would be fixed by the arbitrator and the parties would be entitled to proceed with reference to the interim directions issued by the Tribunal above.
8. The Project Proponent shall start revenue sharing with the Corporation from the date on which plant is commissioned i.e. energy is generated and sold but it will be subject to final award of the arbitration. The Delhi Electricity Regulatory Commission shall deal with the matters of approval of power purchase agreement with utmost expeditiousness, with respect to generation of power and its sale.

9. We expect both these plants to operate to their optimum capacity without causing any pollution either in their process or through their emissions. They shall operate strictly as per the prescribed norms in relation to ambient air quality, stack emissions provided under the Air Act and collect and dispose of waste strictly in terms of Solid Waste Management Rules, 2016.
10. In the event, they are found at default at any one point of time, they shall be liable to pay environmental compensation of Rs. 5 Lakh for each default. The default would be determined by the joint inspection team that we will constitute under these directions.
11. The joint inspection team shall consist of Member Secretary, Central Pollution Control Board; Member Secretary, Delhi Pollution Control Committee; Senior Scientist from Ministry of Environment, Forest and Climate Change and a member of faculty nominated by the Director, I.I.T., Delhi.
12. The Okhla plant shall continue to operate but it would be subject to the orders of the Tribunal that may be passed in Original Application No. 22 of 2013.
13. This committee shall be Supervisory Committee and would visit the plant in question at least once in two months. The day-to-day working of the plant shall be examined and report be submitted to the supervisory committee by a team selected by the Supervisory Committee consisting of members of the above organizations.
14. We also expect that all the Authorities would cooperate and provide required assistance, help and guidance to the plant owners if they are found to be deficient and not performing as per the prescribed norms. Polluter Pays Principle has to be adhered to but it should not be converted into 'pay and pollute'. The goal of achieving decent and clean environment is possible only with due cooperation of the Authorities, in the position of satisfactory performance by the Project Proponent and full cooperation from the public at large. The public cannot ignore its duty provided by the constitution itself under Article 51(g) of the Constitution of India. There are three landfill sites/dumping sites in Delhi at Ghazipur, Bhalswa and Okhla. Each of these sites is a depiction of mess that can be created adversely affecting environment and health of the people of Delhi. All the Corporation, Delhi Development Authority and all other public authorities including

Government of NCT, Delhi are directed to take immediate steps for reduction and utilization of dumped waste for other purposes. We are informed that an agreement has been entered into with National Highways Authority of India and the Ministry concerned for utilization of the segregated waste from the dumping site for the purpose of road construction including expansion of National Highway No. 24. We direct Corporation and all Authorities to take all appropriate and immediate steps for segregation of waste in terms of the agreement entered into by them. Maximum efforts should be made to utilize segregated waste for road construction of NH-24 in terms of the agreement and even other roads. We hereby direct CPWD, PWD, Delhi to take segregated waste from all the three dumping sites and use the same for construction of the road and embankment, wherever required.

We hereby appoint a High Level Committee under Additional Secretary, Ministry of Urban Development, Govt. of India, comprising of Secretary, Environment; NCT, Delhi, Chairman, CPCB; Chairman, DPCC; DDA and all Municipal commissioners. The Committee shall prepare a clear cut action plan for disposal of entire solid waste generated in Delhi and shall prepare a comprehensive plan for Bio-stabilization of all these sites and submit it before the Tribunal within one month. The Additional Secretary, Ministry of Urban Development would be entitled to co-opt or call any other person besides members that we have directed i.e. Delhi Pollution Control Committee, Central Pollution Control Board, CPWD, PWD, Delhi Development Authority and Corporation.

All the Corporation, Public Authorities, Delhi Development Authority, including Ministry while issuing tender for construction of road in any part of NCT, Delhi would make it compulsory, to whomever the work is awarded, to utilize the usable waste for the said purpose.

15. It is stated that one point of time there were nearly 24 landfill sites for waste management identified in the Master Plan 2021. We direct the Committee constituted above, chaired by Additional Secretary, Urban Development, to identify and submit report to the Tribunal as to the possibility of providing landfill site for waste management in Delhi particularly out of 24 sites stated in the Master Plan. We are informed by the Government about scarcity of land in Delhi, therefore, it has becomes

necessary that we should have greater number of Waste to Energy Plant and RDF Plant so that the waste generated can be processed and very limited residue remains. The remaining residue is manageable, possible to store and to dump the same without adversely affecting environment and public health. We further direct Public Authorities, Corporation and Development Agencies to ensure that these dump sites are covered with clay particularly disinfected in terms of Solid Waste Management Rules, 2016 without any further delay.

16. From the entire discussions above, it is evident that none of the authorities whatsoever till today has any correct data of generation of municipal solid waste with all its components in Delhi, upon conducting physical survey. We have no hesitation in observing that the statistics and data furnished to the court and Tribunal are based on some imaginary figures of questionable authenticity. Everybody relies on data furnished by the other or by some studies to which they were not involved as a party. It is undisputed before us that none of the Corporation, Delhi Development Authority or any other agency responsible for development has ever physically conducted survey to collect primary data even for smaller part of Delhi so as to find out the exact generation of municipal solid waste, per capita, which is formally stated to be adopted by them. Therefore, we direct each Corporation, Development Agencies or Authorities to at least pick up two colonies, one from unauthorized colony and one from authorized colony, under their jurisdiction. They shall engage agencies who shall collect data in their presence or collect data themselves in relation to population as well as municipal solid waste generated in that colony as a whole or per capita and they shall also state the composition of waste. The Corporations will maintain special records in regular course of day-to-day business showing as to how much waste has been collected, its components and how much waste remained uncollected. The Corporation will also ensure that such waste, if collected by the Corporation, it should be at the source or in any case at the Dhalao or point of collection.
17. We direct the Commissioner of each Corporation to submit a scheme before the Tribunal for providing incentive to the people who give segregated waste at source, by way of rebate in property tax and on the other hand to impose penalties on residents, societies, RWAs who do not provide segregated

waste. It should be kept in mind that on Polluter Pays Principle, each person would be liable to pay for causing pollution, if the waste is generated. It is the duty of a citizen to ensure that said waste is handled properly and not to cause any pollution or cause inconvenience to other persons. The entire burden cannot be shifted on the state and authorities. It shall be submitted, within one month, to the Tribunal.

18. All major sources of municipal solid waste generation – hotels, restaurants, slaughter houses, vegetable markets etc. should be directed to provide segregated waste and handover the same to the Corporation in accordance with rules. Any such body, person, hotels, residents, slaughter houses, vegetable markets etc. which does not comply with the directions or throw their waste over any drain or public place shall be liable to pay environmental compensation at the rate of Rs. 10,000/- per default. It is their obligation to segregate the waste at their place and handover the same to the Corporation centres for waste collection or the Agencies appointed.
19. The NCT, Delhi, all Authorities and concerned Ministries will ensure complete implementation of the notification 1999 as amended by 2016, in all respect. The Delhi Development Authority and Corporation shall collectively consider and submit a proposal to the Tribunal for establishment of brick manufacturing plant with mixtures of fly ash. We direct that all the construction activity in Delhi should be preferably done, to the extent notified in the notification, by bricks produced from such plant rather than clay bricks. The Government has already issued directions thus it will be the obligation of NCT, Delhi to see that direction is implemented in its spirit and substance. The possibility of establishing more such plants should be comprehensively examined. We may notice that there are at least 3 or 4 thermal power plants within 300 Kms. which are generating considerable fly ash/bottom ash. The Government and Authorities concerned should ensure that the fly ash/bottom ash generated or collected in ash ponds shall be utilized for the purpose of manufacturing blocks etc. and is not merely dumped. We further direct that wherever fly ash or bottom ash is dumped, should be sprinkled on regular intervals and should be particularly covered by all the Agencies, Corporation, Project Proponent and other concerned stakeholders.

20. We direct that Corporations, Development Agencies and Fire Departments of Delhi should ensure that none of the dumping site is ever seen at fire. It shall be a collective responsibility and Fire Department shall, in consultation with the Commissioner of Corporations, fix responsibility and dedicated fire vehicles would be made available for each site, in addition to their normal duties.
21. Wherever it is feasible, the waste shall be composted or biomethanated near to the point of its generation and collection and in that case it may not be necessary for transporting the compostable waste to the landfill site or waste processing plant. We direct that the Corporation shall make every attempt to segregate compostable and C&D waste out of 4900 MT municipal solid waste that they receive. That segregated C&D waste along with 3900 MT C&D waste collected shall be utilized henceforth for construction activity, particularly in relation to road embankment wherever needed and other allied construction project. Every Public Authority, all Corporations, Cantonment Board and Delhi Development Authority should immediately stipulate such a condition in their tender documents.
22. The High Level Committee constituted under this order shall be at liberty to require NCT, Delhi and even the Government to provide fund for compliance of these directions and implementation of the project prepared there under. The Corporation and Public Authorities would also be at liberty to invoke Polluter Pays Principle and require the public at large to pay for that purpose.
23. We further direct that the use of disposable plastic glasses is prohibited in entire NCT, Delhi at hotels, restaurants and public as well as private functions. The NCT, Delhi shall take appropriate steps against storage, sale and use of such plastic material at above places and it shall stand prohibited w.e.f. 01st of January, 2017.
24. There should be segregation of waste at source. In order to ensure that the waste segregated at source is transported, stored and processed separately, the existing Dhalaos wherever constructed within the limits of NCT, Delhi should be compartmentalized, one chamber for bio-degradable waste, the second for non-biodegradable and recyclable waste and the third for the hazardous & other wastes. Even, wherever Dhalaos are not provided the concerned

Corporation should provide/construct three separate bins as indicated above, of proper sizes which can be mechanically handled and are in accordance with Solid Waste Management Rules, 2016.

25. The planning and municipal authorities shall, while approving the layout plan for new housing colonies where the area exceeds 5000 sqms, mandate provision for decentralised processing of segregated, biodegradable and compostable waste of the colony within its premises in terms of the Solid Waste Management Rules 2016. Even in respect of the existing Colonies/Group Housing Societies/ Residential Welfare Associations, the Planning and Municipal Authorities should identify areas within the premises of colony / RWA where such decentralised processing of biodegradable/ compostable waste could be carried out either by bio-methanation or composting.
26. Recognising that the waste generated in Delhi will have to be processed within its territory, all the Municipal authorities, other public authorities including DDA and State of NCT Delhi should draw up an integrated waste management plan for city of Delhi identifying landfill sites, improvement of existing landfill sites as also the efficiency and functioning of waste processing units. Such integrated action plan shall be prepared within a period of two months. The Committee Constituted, under para 14 of this order, should examine and submit the Action Plan to the Tribunal, within the period specified above.
27. We direct that all the concerned Authorities, Corporation, Delhi Development Authority, Cantonment Board, NDMC, all Boards, Project Proponents, Railway, NCT, Delhi should co-operate with each other to comply with these directions in their true spirit and substance. In the event of default the person, irrespective of status in hierarchy of the Government or Department, shall be liable to be proceeded against personally in accordance with law. Both the Committees constituted under this order shall submit their reports to the Tribunal within the specified time, in any case, not later than six weeks from today. Report as and when submitted shall be numbered separately by the Registry and matter be placed before the Tribunal for appropriate orders. We grant liberty to the applicant to approach the Tribunal in the event of non-compliance of the directions contained herein.

The above judgments of the Hon'ble Supreme Court and the Tribunal are illustrative of the fact that the Courts or Tribunals have issued appropriate directions for ensuring environmental protection. The right to decent and clean environment should not remain illusory but should be a right which is enforceable and benefits of which should accrue to the citizens of the country. The gaps in the Rules or directions issued by the Executive has to be supplied by judicial pronouncement, if it is necessary to do so. The Rules of 2016 do have certain gaps or they do not comprehensively deal with the requirements of the Act of 1986. For instance, clause (i) of Schedule-I limits utilisation of inert and non-biodegradable waste to be used for building up of roads but only in the hills. The Rules and/or the schedule does not provide why such waste particularly, non-biodegradable and inert waste can be used for laying roads in all cities of the country. For instance, in a place like Delhi, the generation of non-biodegradable or non-recyclable waste is huge and it could be purposefully used for construction of roads or embankments.

30. There is no punitive provision in the Rules of 2016. However, in terms of Rule-15, a duty has been cast upon local authorities and village Panchayats to form bylaws and formulate a criteria for levying spot fine for persons who litter or fail to comply with the provisions of these Rules. The Rule could safely provide for applicability of the punitive provisions of the Act of 1986, as afore-indicated. The Rules are silent as to whether the specified purpose in the Rules and the Schedules is extendable, and if, they are

mandatory or directory. The Rules are also silent with regard to management of domestic hazardous waste collected along with domestic or other waste under the Rules of 2016.

31. Upon placing on record, the Notification of the Rules of 2016, the parties were given opportunity to put on record their suggestions or additional factors that need to be added to the Rules of 2016. This was primarily directed to ensure that there were no linguistic or practical deficiencies or gaps in the Rules of 2016 and so they could be enforced without exceptions effectively and purposefully. The Applicant filed her suggestions to the Rules of 2016 on 6th May, 2016. To these suggestions, CPCB, MoEF&CC and other parties were required to respond. These Respondents filed their response to the suggestions made by the Applicant for effective implementation of the Rules.

32. The Applicant proposed the following four aspects which require deliberation and decision by the Tribunal. They are:

- a) Ban on short life PVC and chlorinated plastics
- b) RDF to Cement Plants
- c) Buffer Zone
- d) Tipping Fee

Applicant has sought following directions from the Tribunal;

1. *WTE projects be approved on the following conditions:*
 - a. *Energy balance, Mass balance and Water balance shall be submitted with the initial proposal for consideration and form part of the agreement.*

- b. *No commitment in the agreement shall be made for mixed waste or waste of any specific calorific value.*
 - c. *No unprocessed wet waste or recyclables shall form part of the feedstock.*
 - d. *No commitment for guaranteed supply of waste in excess of 85% of their current total waste generation as minimizing residual waste is a key objective of SWM.*
 - e. *Incinerator ash shall be sent to haz. waste landfill at the operators cost.*
2. *All SPCBs/PCC shall not only permit but encourage supply of combustibles including mixed plastics as RDF to nearby industries, power plants and cement plants.*
 3. *Union of India, Respondent No.1 herein shall phase out with clear timelines the use of PVC in all packaging, hoardings/banners, use-and-throw and short-life items.*

CPCB by affidavit dated 20th September 2016 has generally concurred with these suggestions particularly related to short life plastic and RDF for cement plants. As far as Buffer zones are concerned the CPCB informs that it is in the process of preparing the '*National Guidelines for Buffer Zone around waste processing and Disposal Facilities*'. CPCB further submits that the applicant is correct in submitting that though the term 'Tipping Fee' has been defined in the SWM Rules 2016, but the application and other relevant factors have not been stated in any of the provisions of the said Rules and MoEF&CC needs to take a view in this regard.

The MoEF&CC has filed its affidavit on the suggestions of the applicant on 18th October 2016 and submits that as far as PVC and Chlorinated Plastics are concerned the MoEF&CC is open to such consideration but only after necessary examination of the issue by formation of group of experts. MoEF&CC further states that in any

case, the incinerators for solid waste incineration have been prescribed with emission criteria which include standards for toxic emissions i.e. Hydrochloric Acid, Heavy Metals, Total Dioxins and Furans. Further, the Bio- Medical Waste Management Rules, 2016 also stipulate phasing out the use of chlorinated plastic bags within 2 years.

As regards the suggestions related to use of RDF in Cement plants the Ministry has elaborated the present legislative framework and submits that the National Policy and State Policy as envisaged in the Rules of 2016 will consider such aspect. Ministry further submits that the CPCB is in process of formulating the guidelines for buffer zone which will be duly considered and examined by the Ministry. The Ministry also undertakes to examine the issue relating to the Tipping Fee to the output in consultation with the stake holders.

It is a matter of record that the Rules of 2000 were notified after the effective intervention of the Hon'ble Apex Court, in the present matter which is under consideration, transferred by the Apex Court to this Tribunal. The Rules of 2000 also contained elaborate time bound action plan and also details of various technologies and procedure for segregation, collection, transport, treatment and disposal of the MSW. It is also a matter of record that all the cities in the country including major metropolitan cities have failed to achieve the benchmarks and objectives of the Rules of 2000. As per CPCBs report maximum 27% of the municipal solid waste

generated in the country is treated. It is also well established that improper collection, treatment and disposal of the MSW has serious implications on the human health and has direct correlation with the health burden of the respective cities.

It would therefore have been prudent if the Ministry had carried out a critical analysis of the reasons for non-implementation of the Rules of 2000 by identifying the concerns/issues/weaknesses in the said Rules while framing the new rules. This is relevant because though in the Rules of 2000, three years' time period was given for implementation of the rules, even after 16 years, there is abysmal progress in the implementation of the Rules. Moreover, the Rules of 2016 further gives a timeframe spanning over one year to five years for providing necessary infrastructure by the Local Bodies or concerned authorities for implementation of the Rules. Serious apprehensions have been raised by the State/UTs that the timeframe prescribed under the Rules of 2016 for certain compliances has already lapsed while for other compliances the period goes up to two years, this itself would aggravate the problems of environment, public health and nuisance resulting from huge collection of Municipal Solid Waste. This would largely affect the weaker sections of the society living both in urban and rural areas.

As regards the Buffer Zone, it is to be noted that this term also existed in Notification of 2000. In the last, 16 years, this term has not been comprehensively defined with any objective criteria. It is

true that the nature and the extent of the buffer area will vary based on specific site conditions.

In most of the cities, the waste processing plants are located outside the city limits, in the rural areas. This is typically in line with the ill famed “not in my backyard” principle. The waste generated by the cities is practically dumped in the rural areas and the surrounding population faces the adverse impacts of such indiscriminate and unscientific disposal. Providing of buffer zone can have an impact on the rights of the owners of the adjacent properties and impose limitations on the use of the land as well. This is one of the main reasons that the rural population is opposing the waste processing plants located outside the city. On the other hand, if the waste processing plants are designed and operated strictly as per the provision of the Rules, there may not be any compelling need of having larger buffer area. In fact, if the population or development is allowed near the waste processing plant, it will directly put the plant operator and the city authorities on notice, to operate their plant scientifically on continuous basis. One of the demands, the Tribunal has received in many cases is that if the city authorities are keen to have buffer areas, they should also acquire the proposed buffer area as a part of the project which will reduce the hardship of the local residents. In other words, the buffer area shall be part and parcel of the waste processing facility.

Applicant has stressed segregation of waste at source, even in case of provision of incineration/ waste to energy plant. The Rules of 2016 are very clear on this aspect, and stipulate the waste segregation as mandatory, irrespective of the technology or process of waste processing. There seems to be no ambiguity or any scope for the misinterpretation of Rules related to segregation of waste at source.

33. Incineration of MSW involving combustion in a furnace which converts waste into ash, gaseous and particulate emissions and heat energy. In the process the volume reduction is of the order of 90-95% and recovery of heat to produce steam which in turn produces power through steam turbines. The efficiency of the technology is linked to the waste characteristics and properties such as moisture content and calorific values. It requires high temperature of the 800-1000 degrees Celsius and sufficient air and mixing of waste.

34. A Waste to Energy plant based on mass incineration, besides having low efficiency of waste to energy conversion, is contrary to the Rules of 2016 which requires segregation at source.

35. A Waste to RDF plant offers an alternative use as fuel for cement plant, even in case it is not used for power generation in the Waste to energy plant. The RDF once pelleted and briquetted has a long shelf life and can be transported over long distances for use as fuel. However, what is critical is the calorific value of the RDF and

moisture content. The Rules of 2016 require a minimum calorific value of 1500 K/cal/kg.

36. Considering low percentage of non-recyclable and combustible organic and inorganic waste in the waste generated in most cities, and recovery of recyclable plastics from the mixed waste by the rag pickers, clusterization of urban civic bodies has been started in some states like Punjab and Haryana pursuant to *Capt. Mall Singh's judgment* by the Tribunal. However what is essential is that only waste that is proposed to be used in Waste to RDF or Waste to Energy plants, and the waste that is non-recyclable and combustible should alone be transported to the Waste to Energy or WtRDF plant after segregating the biodegradable and compostable waste to be composted or bio-methanated at the level of the Municipality. Similarly recyclable waste also should be segregated before transporting non-recyclable waste to the Waste to Energy plant. This will minimise expenditure on transportation and saving on diesel fuel and reduce emissions. Additionally, the civic agency will be required to do segregation at the house hold as well as at the municipal level. This will also be in conformity with the Rules of 2016.

37. Thus, while segregation of inert (C&D), biodegradable and non biodegradable and combustible waste needs to be organized in a decentralised manner as prescribed even in the new SWM Rules, setting up of the Waste to Energy and Waste to RDF Plants needs to be organized in a centralised approach so that the plant receives a

certain minimum quantity of usable waste to make it economically viable. The Task Force on Waste to Energy Plant Report (2014) has recommended a minimum of 300 MT of combustible waste for setting up a Waste to Energy or Waste to RDF Plant.

38. The Applicant has pointed out that the cement companies are asking for payment to incinerate hazardous waste besides requiring the municipal authorities to transport the Hazardous waste and the RDF to the cement plants. The Applicant has suggested that the RDF should be supplied to the Cement/thermal power plants at a price based on the calorific value and they should also bear the cost of transportation of RDF. While this is a welcome suggestion the financial viability of this need to be worked out between the agency producing RDF and the Cement company/thermal power plant and this will obviously depend upon the calorific value as well as the transportation cost involved. She has sought a direction from the NGT in this behalf. This argument has merit and calls for issue of direction to the State Governments and the agencies operating thermal plants and cement companies to pay for the RDF based on the calorific value and also undertake transportation at its own cost.

39. The Rules of 2016 require the CPCB to formulate siting guidelines for locating SWM facilities. The Manual on SWM brought out by MoUD has suggested that a SWM facility for 300 MT per day may require about 6 ha of land for composting and RDF. It has also

been suggested that a buffer zone of about 500 metres be provided around the SWM facility.

40. Similar guidelines were prescribed in the earlier Manual brought out by the Ministry of Urban Development though the Rules of 2016 did not prescribe any quantitative figure of buffer zone. By way of illustration, identifying a buffer zone of 500 metres around a MSW site measuring about 6 ha will require more than 100 Ha around the MSW site if a buffer zone of 500 metres all around is insisted upon. Such a huge chunk of land free from habitations in urban settlement is an impossibility. What is required is creating green belts around the plant by prescribing very high environmental standards to be maintained.

41. As already stated, for establishing Waste to Energy plant, availability of auxiliary/supporting fuels such as high calorific value bio-mass or solid/liquid fuel like coal, liquid fuel is necessary. All relevant material on the subject has emphasised reuse, recycle of the waste and also for improving the capacity of local bodies for segregation, recycling and reuse of MSW, recognizing inter alia the positive impacts which it may have on the welfare of the stakeholders. The approach of local authorities and other stakeholders should be very objective and rational in making decisions for site selection, establishment of the plant/processing facilities and welfare of the public at large. The buffer zones to be provided should have a direct nexus with the area available and the green belt should be created so that no land is wasted unnecessarily. The

relation between the activity of the plant and the green barriers should be practical and necessary for proper functioning of the plant in accordance with the Rules of 2016. Keeping in view the scarcity of land, even 20 metres buffer zone would be sufficient, provided it has rich green belt to serve the requisite purposes. Another aspect in our considered view that needs consideration is the bio-stabilization of the new and existing landfill sites. The biodegradable waste mixed with other wastes or otherwise when piled in heaps releases highly polluting leachate during decomposition which irreversibly contaminates ground and surface water around large dumps. It may even render the wells and borewells entirely unfit for drinking and agricultural purposes and besides, the decomposition in the absence of oxygen also releases Methane, a toxic gas and Hydrogen Sulphide which produces bad odour. Therefore, the mixed waste when unloaded in an orderly fashion in long parallel heaps called windrows, could be turned weekly four to five times to expose all parts to the air. The waste then stops releasing leachate and methane and is then called stabilised. The heaps also need to be kept moist with the addition of fresh cow dung to speed up the digestion of cellulose in the food waste. The stabilised waste then be subjected to composting, which can be utilized as compost ready for use as organic manure. The concept of adoption of technologies for waste handling stabilisation is referred to in Rule 15 (v) of the Rules of 2016. The Hon'ble Supreme Court of India as early as 28th July, 1997 passed an order and directed all the States to submit their plan for waste-

stabilisation, and that order does not appear to have been complied with even as of now. Providing separate bins at the 'dhallaos' where the waste is dumped again would be necessary. In fact, the Resident Welfare Associations should be required to segregate the waste within the colonies before the same is dumped at the 'dhallaos'.

Tipping fees is one of the important factors for operating WTE plants. Rule 3(50) defines, 'tipping fee' to mean a fee or support price determined by the local authorities or any State Agency authorised by the State Government to be paid to the concessionaire or operator of the waste processing facility or for disposal of residual solid waste at the landfill. Besides this definition, the Rules of 2016 are completely silent as to the manner in which such tipping fee should be paid. The criteria for such determination, is conspicuous by its absence. The tipping fee is generally charged by plant operators based on the quantity of the mixed waste received at the plant. This practice does not prescribe any relation or dependency with the output of such plant, i.e., the efficiency and also the availability of operation of the plant. The plant's performance, efficiency and availability are relevant for compliance with the Rules of 2016, as the generation of waste will be on a day to day basis without any break and any outage of the plant, even for few days will create waste disposal crisis. Therefore, it may be relevant to link the tipping fee to the efficient and regular operation of waste processing plant along with the load of waste provided to the plant for actual processing. The definition clause is

also suggestive of the fact that the concessionaire or operator of the waste processing facility is to be paid. This fee is the support price, to be determined by the local authorities and is payable to the operator of the facility for processing the waste or for disposal of the residual solid waste at the landfill. In other words, the concessionaire who is just dumping the waste at the landfill site be entitled to tipping fee. The essence appears to be the handling of the waste by the concessionaire or operator of the facility, but that waste should not merely be determined with reference to the load given but should be the actual waste which the concessionaire or operator of the facility actually uses in its plant for processing. To put it simply, the efficiency and better availability of the plant along with the waste provided or collected by the concessionaire or operator of the facility should be the criteria for determination of the tipping fee and payment thereof. Of course, we are not oblivious of the fact that these rights and obligations are to be governed by a specific contract entered into between the concerned stakeholders/parties. This is merely the criteria that we have indicated to. If the tipping fee is to be paid to the concessionaire/operator of the facility then the waste sent to that plant or collected and brought to the plant should be weighed mechanically by installing computerised weighing machines which are directly linked by an online system to the local authorities or any stakeholder who is responsible for performance of such activity. It is difficult to develop an analytically objective criteria for determination and payment of tipping fee model but it is an

incentive for an operator to operate the systems efficiently, effectively and to deal with the waste in consonance with the Rules of 2016. It will be ideal if the operator of such plant is also responsible for collection, treatment and disposal of waste. This will give appreciable results. Even where the local authority is responsible for providing the waste to the operator at his plant, every effort should be there to segregate the waste at source and provide the operator with the waste which would directly be usable in the plant. This would be beneficial to both the parties. The operator would be able to deal with the waste without causing pollution while the local authority would be able to save undue expenditure which would be caused by sending heavy load of mixed un-segregated waste. The tipping fee has relevancy to all the techniques for processing and dealing with the waste. RDF and Waste to Energy are the safest routes which are in consonance with economic principles as well as the techniques for environmental protection.

42. All the States should at least now, comply with the Rules of 2016 without any further delay and demur. The Rules of 2016 provide time limits which have already expired. None of the States/UTs have taken action in accordance with such Rules. In other words, the time frame postulated under the Rules of 2016 already stands defeated. The period of six months stated under Rule 6 (b), 15, 18, 23 has expired on 8th October, 2016 and none of the State Governments or the local authorities have prepared any action plan, constituted committee or submitted their reports to the

Central Government or the Central Committee for finalization thereof. It is a matter of record that SWM is one of the greatest challenges that our country is facing. Not only that, the State Government and the local authorities have failed to perform their statutory and constitutional obligations and even the people at large who generate waste, have also failed to perform their constitutional duty. Environment cannot be kept decent and clean if we continue to dump MSW anywhere and everywhere. The plants meant to process the waste do not perform effectively and to the prescribed standards in law. The landfill or dumping sites are so ill maintained that they have not only gone beyond the permissible heights but are continuously polluting the underground and ground water through leachate pollution. They produce Methane and Hydrogen Sulphide which are a continuous source of pollution for the environment and cause public health hazards. Besides all this, it is an eyesore be it located in the beautiful city of Chandigarh, gift of nature Srinagar or the capital of the country, Delhi. All stakeholders, particularly, the local authorities upon whom burden lies to ensure proper collection, segregation, transportation and disposal of solid waste should act in complete coordination and coherence to ensure that the country tackles this menace of MSW objectively, effectively and ensures that there is no pollution of the environment and consequent adverse impacts on public health. The Rules of 2016 need to be adhered to in their entirety and without exception. All the bodies, officers and citizenry who have failed to adhere to and/or have violated these precautionary and

preventive measures in any form whatsoever, should have punitive action initiated against them by the concerned authorities.

43. The present application relates to the management of solid municipal waste in the entire country. We have already noticed that the country is generating 133760 MT of waste/day as in 2012-2013 which apparently has increased rapidly with the passage of time. A city like Delhi alone generates approximately 14100 MT of solid waste per day. Hardly any land is available for creation of land fill sites. Indiscriminate dumping of such huge quantity of mixed waste would inevitably have adverse impacts on environment and public health. The only possible solution is to treat this waste in accordance with the Rules of 2016 to ameliorate this situation. We have to convert this health hazardous humongous waste to a source of power, fuel and benefit for society at large, in consonance with the Principles of Circular Economy. Processing of waste by adopting bio-methanation, composting, conversion to RDF and converting waste to power generation, is the only solution which must be adopted by all stakeholders without wasting any further time. Immediate attention to preparation of action plan and effective execution thereof is the need of the day and is the essence of the only solution. It is neither possible nor even prudent to provide unequivocally a certain criteria for adoption of any or more of the technologies for management, processing and disposal of SMW by the respective States. The factors that are required to be taken into consideration for site selection and establishment of a particular plant, have been mentioned above which are not

exhaustive but merely illustrative. It would depend primarily on geographical, financial and other conditions as stipulated above. Irrespective of the fact that which technology is adopted by a State, it is absolutely essential that the State should prepare complete and comprehensive action plan for management, for processing and for disposal of its solid municipal waste in accordance with the Rules. Every State has spent considerable money and manpower but without any desired results. Any further delay in proper enforcement of such action plans in accordance with the Rules is likely to prove disastrous for environmental protection and public health. It is, therefore, necessary for this Tribunal to issue comprehensive directions to ensure effective and expeditious implementation of the Rules of 2016 and which would also bridge the gaps in these Rules. Thus, we issue the following directions in the interest of the environment and public health:

1. Every State and Union Territory shall enforce and implement the Solid Waste Management Rules, 2016 in all respects and without any further delay.
2. The directions contained in this judgment shall apply to the entire country. All the State Governments and Union Territories shall be obliged to implement and enforce these directions without any alteration or reservation.
3. All the State Governments and Union Territories shall prepare an action plan in terms of the Rules of 2016 and the directions in this judgment, within four weeks from the date of pronouncement of the judgment. The action

plan would relate to the management and disposal of waste in the entire State. The steps are required to be taken in a time bound manner. Establishment and operationalization of the plants for processing and disposal of the waste and selection and specifications of landfill sites which have to be constructed, be prepared and maintained strictly in accordance with the Rules of 2016.

4. The period of six months specified under Rule 6(b), 18, 23 of the Rules of 2016 has already lapsed. All the stakeholders including the Central Government and respective State Governments/UTs have failed to take action in terms thereof within the stipulated period. By way of last opportunity, we direct that the period of six months shall be reckoned w.e.f. 1st January, 2017. There shall be no extension given to any stakeholders for compliance with these provisions any further.

The period of one year specified under Rule 11(f) 12(a), 15(e), 22(1) and 22(2) has lapsed. The concerned stakeholders have obviously not taken effective steps in discharging their statutory obligations under these provisions. Therefore, we direct that the said period of one year shall commence with effect from 1st July, 2017. For this also, no extension shall be provided.

Any State or Union Territory which now fails to comply with the statutory obligations as afore indicated

shall be liable to be proceeded against in accordance with Section 15 of the Environment (Protection) Act, 1986. Besides that, it would also be liable to pay environmental compensation, as may be imposed by this Tribunal. In addition to this, the senior most officer in-charge in the State Government/Urban Local Body shall be liable to be personally proceeded against for violation of the Rules and orders passed by this Tribunal.

5. The Central Government, State Government, Local Authorities and citizens shall perform their respective obligations/duties as contemplated under the Rules of 2016, now, without any further delay or demur.
6. All the State Governments, its departments and local authorities shall operate in complete co-ordination and cooperation with each other and ensure that the solid waste generated in the State is managed, processed and disposed of strictly in accordance with the Rules of 2016.
7. Wherever a Waste to Energy plant is established for processing of the waste, it shall be ensured that there is mandatory and proper segregation prior to incineration relatable to the quantum of the waste.
8. It shall be mandatory to provide for a buffer zone around plants and landfill sites whether they are geographically integrated or are located separately. The buffer zone necessarily need not be of 500 meters wherever there is a land constraint. The purpose of the buffer zone should be

to segregate the plant by means of a green belt from surrounding areas so as to prevent and control pollution, besides, the site of the project should be horticulturally beautified. This should be decided by the authorities concerned and the Rules are silent with regard to extent of buffer zone. However, the Urban Development Manual provides for the same. Hence, we hold that this provision is not mandatory, but is directory.

We make it clear that buffer zone and green belt are essential and their extent would have to be decided on a case to case basis.

9. We direct that the Committees constituted under Rule-5 would meet at least once in three months and not once in a year as stipulated under the Rules of 2016. The minutes of the meeting shall be placed in the public domain. Directions, on the basis of the minutes, shall be issued immediately after the meeting, to the concerned States, local bodies, departments and Project Proponents.
10. The State Government and the local authorities shall issue directives to all concerned, making it mandatory for the power generation and cement plants within its jurisdiction to buy and use RDF as fuel in their respective plants, wherever such plant is located within a 100 km radius of the facility.

In other words, it will be obligatory on the part of the State, local authorities to create a market for

consumption of RDF. It is also for the reason that, even in Waste to Energy plants, Waste–RDF–Energy is a preferred choice.

11. In Waste to Energy plant by direct incineration, absolute segregation shall be mandatory and be part of the terms and conditions of the contract.
12. The tipping fee, wherever payable to the concessionaire/operator of the facility, will not only be relatable to the quantum of waste supplied to the concessionaire/operator but also to the efficient and regular functioning of the plant. Wherever, tipping fee is related to load of the waste, proper computerised weighing machines should be connected to the online system of the concerned departments and local authorities mandatorily.
13. Wherever, the waste is to be collected by the concessionaire/operator of the facility, there it shall be obligatory for him to segregate inert and C&D waste at source/collection point and then transport it in accordance with the Rules of 2016 to the identified sites.
14. The landfill sites shall be subjected to bio-stabilisation within six months from the date of pronouncement of the order. The windrows should be turned at regular intervals. At the landfill sites, every effort should be made to prevent leachate and generation of Methane. The stabilized waste should be subjected to composting,

which should then be utilized as compost, ready for use as organic manure.

15. Landfills should preferably be used only for depositing of inert waste and rejects. However, if the authorities are compelled to use the landfill for good and valid reasons, then the waste (other than inert) to be deposited at such landfill sites be segregated and handled in terms of Direction 13.
16. The deposited non-biodegradable and inert waste or such waste now brought to land fill sites should be definitely and scientifically segregated and to be used for filling up of appropriate areas and for construction of roads and embankments in all road projects all over the country. To this effect, there should be a specific stipulation in the contract awarding work to concessionaire/operator of the facility.
17. The State Government, Local Authorities, Pollution Control Boards of the respective States, Pollution Control Committees of the UTs and the concerned departments would ensure that they open or cause to be opened in discharge of Extended Producer Responsibility, appropriate number of centers in every colony of every district in the State which would collect or require residents of the locality to deposit the domestic hazardous waste like fluorescent tubes, bulbs, batteries, electronic items, syringe, expired medicines and such

other allied items. Hazardous waste, so collected by the centers should be either sent for recycling, wherever possible and the remnant thereof should be transported to the hazardous waste disposal facility.

18. We direct MoEF&CC, and the State Governments to consider and pass appropriate directions in relation to ban on short life PVC and chlorinated plastics as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.
19. The directions and orders passed in this judgment shall not affect any existing contracts, however, we still direct that the parties to the contract relating to management or disposal of waste should, by mutual consent, bring their performance, rights and liabilities in consonance with this judgment of the Tribunal and the Rules of 2016. However, to all the concessionaire/operators of facility even under process, this judgment and the Rules of 2016 shall completely and comprehensively apply.
20. We specifically direct that there shall be complete prohibition on open burning of waste on lands, including at landfill sites. For each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation of Rs. 5,000/- (Rs. Five Thousand only) in case of simple

burning, while Rs. 25,000/- (Rs. Twenty Five Thousand only) in case of bulk waste burning. Environmental compensation shall be recovered as arrears of land revenue by the competent authority in accordance with law.

21. All the local authorities, concessionaire, operator of the facility shall be obliged to display on their respective websites the data in relation to the functioning of the plant and its adherence to the prescribed parameters. This data shall be placed in the public domain and any person would be entitled to approach the authority, if the plant is not operating as per specified parameters.
22. We direct the CPCB and the respective State Boards to conduct survey and research by monitoring the incidents of such waste burning and to submit a report to the Tribunal as to what pollutants are emitted by such illegal and unauthorized burning of waste.
23. That the directions contained in the judgment of the Tribunal in the case of '*Kudrat Sandhu Vs. Govt. of NCT & Ors*', O.A. No. 281 of 2016, shall *mutatis mutandis* apply to this judgment and consequently to all the stakeholders all over the country.
24. That any States/UTs, local authorities, concessionaires, facility operators, any stakeholders, generators of waste and any person who violates or fails to comply with the Rules of 2016 in the entire country and the directions

contained in this judgment shall be liable for penal action in accordance with Section-15 of the Environment (Protection) Act, 1986 and shall also be liable to pay environmental compensation in terms of Sections 15 & 17 of the National Green Tribunal Act, 2010 to the extent determined by the Tribunal.

25. That the State Governments/UTs, public authorities, concessionaire/operators shall take all steps to create public awareness about the facilities available, processing of the waste, obligations of the public at large, public authorities, concessionaire and facility operators under the Rules and this judgment. They shall hold program for public awareness for that purpose at regular intervals. This program should be conducted in the local languages of the concerned States/UTs/Districts.
26. We expect all the concerned authorities to take note of the fact that the Rules of 2016 recognize only a landfill site and not dumping site and to take appropriate actions in that behalf.
27. We further direct that the directions contained in this judgment and the obligations contained under the Rules of 2016 should be circulated and published in the local languages.

28. Every Advisory Committee in the State shall also act as a Monitoring Committee for proper implementation of these directions and the Rules of 2016.
29. Copy of this judgment be circulated to all the Chief Secretaries/Advisers of States/UTs by the Registry of the Tribunal. The said authorities are hereby directed to take immediate steps to comply with all the directions contained in this judgment and submit a report of compliance to the Tribunal within one month from the date they receive copy of this judgment.
44. With the above directions, this application and all other miscellaneous applications shall stand disposed of without any order as to cost.

Swatanter Kumar
Chairperson

U.D. Salvi
Judicial Member

Bikram Singh Sajwan
Expert Member

Ajay Deshpande
Expert Member

New Delhi
22nd December, 2016

**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, Advs. 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
 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
 Ms. Deep Shikha Bharati, Adv. for MoEF
 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.
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini Yadav Adv. for State of West Bengal
 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
 Mr. D. Rajeshwar Rao, Adv.
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajneesh Bhardwaj and Mr. Raj Kishan Gaur, Adv.
 Mr. Rajneesh Bhardwa Mr. Rahul Sharma and Mr. Gaurav Dubey advs
 Mr. Arjun Syal, Mr. Shreyan Das Adv.
 Mr. Rajkumar, Adv with Mr. Bhupender Ms.Preeti, L.A for CPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 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
 Mr. Rakesh Sharma Mr. V. Mowli, Adv. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas, Adv. for State of Tripura
 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
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Lalit Mohan, Adv. for Delhi Development Authority
 Mr. Arjun Sawhney adv in M. a. No. 1435/2017
 Ms. S. Ghosh, Adv., Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Adv.
 Mr. Apurva Kumar 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, and Ms. Prity, Adv. 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. Gautam singh and Ms.. Shibani Ghosh advs.
 Mr. Nishe Rajen Shonker and Ms. Anu K. Joy, Advs. 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 Adv. and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
 Mr. Dileep Poolakkot, Adv.
 Mrs. Rani Chibber and Ms. Priyanka Sony, Advs.
 Mr. Jogy Scaria, Adv., Ms. Beena Victor, Ms. Mrianda Solaman Advs. for Kerala State Pollution Control Board
 Ms. Sumedha Dang, Adv.
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoinethiam Advs. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam and State of Uttar Pradesh
 Mr. Shivam Bajaj Adv.
 Ms. Aditi Singh Adv. for Narender Pal Singh Adv and Mr. Dinesh Jindel LO
 Dr. Sanjay Kulshreshtha, Applicant in person
 Mr. Rishabh Sharma, Advs.
 Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
 Mr. Gautam Singh and Mr. Soheab Alam, Advs. for State of Bihar
 Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. R.K. Maurya, Mr. Ravi Gopal Advs. for East Delhi Municipal Corporation
 Mr. Shubham Bhalla, Adv.
 Mr. Pragyan Pradip Sharma, Adv Ms. Nitesh , Advs.
 Mr. S.M. Sharma and Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
 Mr. Kamlajeet Singh AAG
 Mr. Nagiender Benipal, Adv
 Ms. Yogmaya Agnihotri, Adv., Ms. Prity, Adv.
 Dr. Abhishek Atrey, Adv.
 Ms. Priyanka Ghorawat, Adv.
 Ms. Shashi Juneja Adv.
 Mr. A.R. Takkar, with Mr. Amarjeet & Ms. Shriya Takkar, Advs. for Ambica Steel Ltd.
 Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & Mr. 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 Mr. Bhupendra Kumar, LA and Mr. Kamal Bandhu, ALO
 Ms. Puja Kalra, Adv.
 Mr. Ankur Chhibber and Mr. Nitish Negi, Advs.
 Mr. Kamaljeet Singh, AAG
 Mr. Udaibir Singh Kochar Adv
 Mr. Gautam Dhamija, Adv.
 Mr. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr. Nawani, Assistand Engineer
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur, 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.
 Mr. Sanchar Anand and Mr. Apoorv Singhal, Advs.
 Mr. Jitendra Kumar Tripathi and Mr. simar Pal, Advs.
 Mr. Shibashish Mishra and Mr. sylona Mohapatra, Advs.
 Ms. Kritika Sachdeva and Ms. Somya Rathore, Advs.
 Mr. Naginder Benipal, Adv. for PPCB
 Mr. Pinaki Misra and Mr. Mayank Das, Advs. for NBCC
 Ms. Shyel T. and Mr. Rishabh Sharma,. Advs.
 Mr. Manoj Kumar Das adv.
 Ms. Sugandama Batra, Adv.
 Mr. Arun K. Sinha, Advs.

Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.
Mr. M. Paikaray and Mr. S. Panda and Mr. A. K. Panda, Advs.
Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
Mr. Arun Monga and Ms. Divya Sharma, Advs.
Mr. Roshmani KH, Mr. Sapam Biswajit , Adv.
Mr. Ajit Sharma and Mr. Adnan Siddiqui, Advs.
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

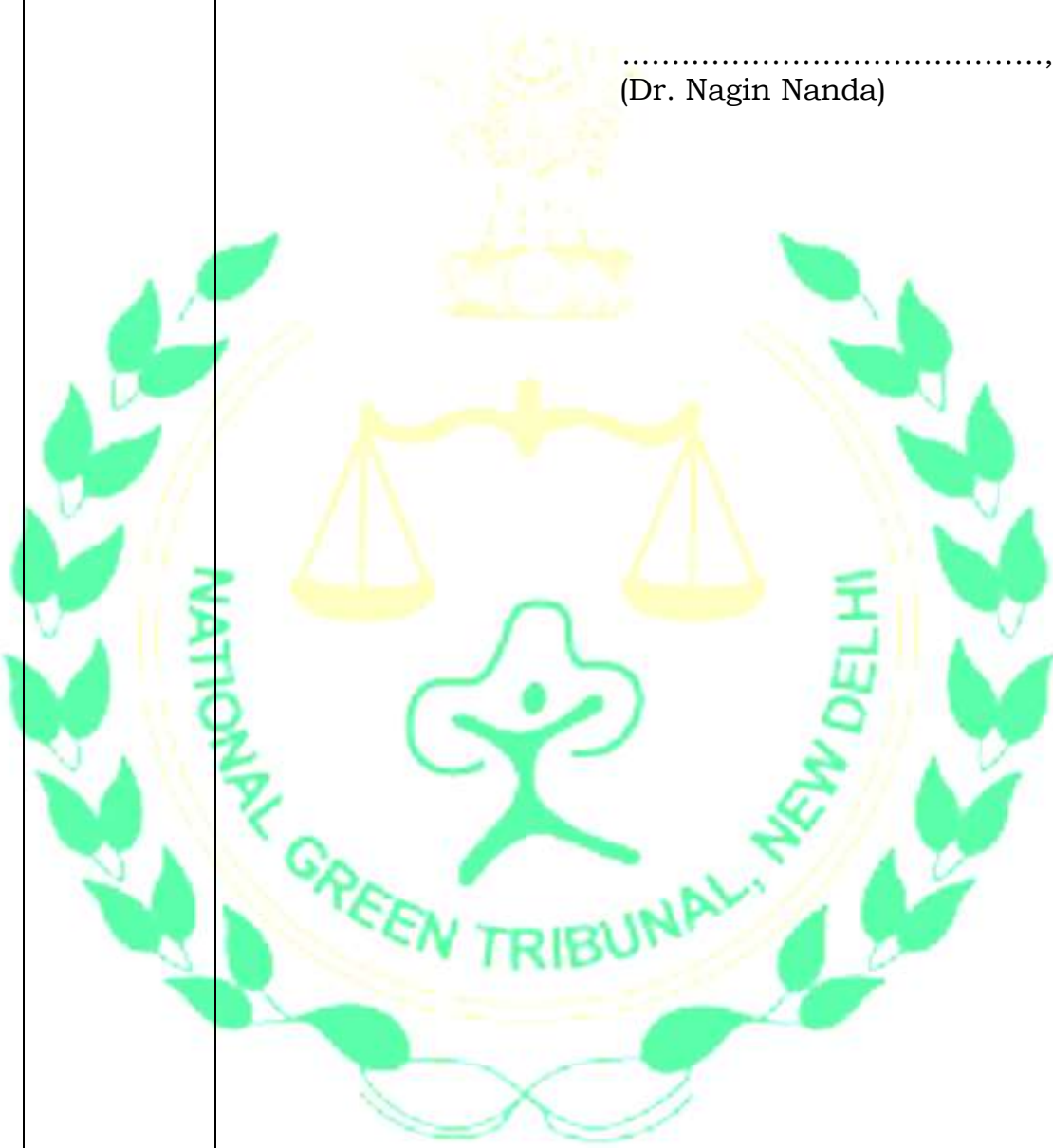
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental 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., 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**

O.A. No. 606/2018

In the matter of:

Compliance of Municipal Solid Waste Management Rules, 2016

ORDER

1. Municipal Solid Waste (MSW) remains one of the most serious challenges for environment protection. Deficiencies in proper management of solid waste have resulted in outbreak of serious diseases in the past and have such potential in future. The issue has been highlighted and considered at all concerned levels and has also been subject matter of decisions of Courts.¹
2. This Tribunal also considered the matter pursuant to order of the Hon'ble Supreme Court transferring the pending Writ Petition to this Tribunal.²
3. The revised Rules³ have been framed in the year 2016 but implementation remains a problem. Under the Rules, 2016 a report is compiled every year. In the recent annual report⁴ prepared in April, 2018, serious deficiencies have been found

¹Dr. B.L Wadhwa vs. Union of India [1996(2) SCC 594], Almitra H. Patel and Ors. vs. Union of India & Ors. (1998) 2 SCC 416, Almitra H. Patel and Anr. vs. Union of India (2004) 13 SCC 538, Municipal Corporation Vs. BVG India Ltd (2018) 5 SCC 462

²Order dated 22.12.2016 in O.A. No. 199 of 2014 in the matter of Mrs. Almitra H. Patel and Anr. vs. Union of India & Ors.

³Solid Waste Management Rules, 2016 replacing earlier Rules.

⁴Consolidated Annual Report for the year 2016-2017 prepared by CPCB.

<http://cpcb.nic.in/openpdf.php?id=UmVwb3J0RmlsZXNmNjE0XzE1MjYzMDE0ODhfbWVkaWFwaG90bzEyMzg3LnBkZg==>

in the reports of most of the States, inspite of the Rules being in operation for the last two years.

4. In the order of this Tribunal dated 22.12.2016⁵, directions were issued for implementation of the Rules, 2016. Direction was issued for the action plan to be prepared in terms of the Rules, 2016 within four weeks. Action under Rule 6(b) and 15 of the Rules, 2016 was directed to be taken by January, 2017 which was to be complied by 01.07.2017. It was directed that failure would result in action under Section 15 of the Environment (Protection) Act, 1986 i.e. prosecution of the concerned authority. Directions were also issued for creating buffer zone around the plants and landfill sites. Further directions were to comply with the various other provisions of the Rules, 2016.
5. The State Level Advisory Bodies envisaged by the Rules were to function as Monitoring Committees (Direction No. 27 in the Tribunal's order dated 22.12.2016).⁶ The Ministry of Environment, Forest and Climate Change has the responsibility to monitor the implementation.⁷ The Ministry of Housing and Urban Affairs (earlier known as the Ministry of Urban Development, hereinafter referred to as 'MoHUA') is to coordinate with States and Union Territories.⁸ There are duties of other Ministries and authorities.⁹ The matter of overseeing

⁵*Supra note 2*, O.A. No. 199 of 2014 Mrs. Almitra H. Patel and Anr. vs. Union of India & Ors.

⁶ *supra note 2*

⁷Rule 5, Solid Waste Management Rules, 2016

⁸Rule 6, Solid Waste Management Rules, 2016

⁹Rule 7 to 16, Solid Waste Management Rules, 2016

compliance of various directions remains pending. This Tribunal is faced with frequent grievances against non-compliance of the statutory rules with the photographic evidence of heaps of garbage lying on the streets showing utter failure on the part of the municipal bodies in performing their duties. While coercive measures like prosecution and fixing accountability of the authorities for their failure is a different issue, the Tribunal considered it proper to have interaction with the stakeholders to evolve a mechanism for execution of orders already passed by the Tribunal particularly the order dated 22.12.2016.¹⁰

6. On 23-07-2018, a meeting was organized through CPCB wherein the experts gave their presentations of successful models adopted for MSW management at some places. It was then decided that after the said models are circulated to the States and Union Territories, an interaction be held with them through video conference.
7. Following issues were circulated to the States and UTs to facilitate interaction:
 - i) Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?
 - ii) Whether each city/town/urban local body is covered under the said Plan and individual Action Plan has timelines with budgetary provisions?

¹⁰ *supra* note 2.

iii) What time has been fixed to completely comply with the provisions of the Rules, 2016?

iv) What are the main constraints of non-compliance of Rules, 2016?

8. Meetings were held with all the States and Union Territories on 02.08.2018, 07.08.2018, 08.08.2018, 13.08.2018 and 20.08.2018 on the aforesaid matter. At the conclusion of the interaction with the States and Union Territories, it was decided and declared that certain binding directions need to be issued by the Tribunal by forming Apex Level, Regional Level and State Level Committees to oversee the steps taken for implementation of the Rules, 2016 and the directions issued by the Tribunal and give a report to this Tribunal at the end of the quarter. The Committees may have interaction individually with the Statutory Authorities and the Urban Local Bodies. Accordingly, we are recording this order. The Registry may register these proceedings as a fresh Original Application.

9. Interaction showed that with few exceptions, the States and Union Territories are no where near compliance of the Rules, 2016 inspite of the directions issued by this Tribunal. Even action plans have yet not been prepared in all the States more than two years after the Rules, 2016 have been in operation and in spite of binding directions in the Judgment of this Tribunal vide order dated 22.12.2016.¹¹

¹¹ *supra* note 2

10. Accordingly, the Chairman, CPCB present during the interaction suggested that such action plans may now be submitted latest by 31.10.2018, after looking into the successful models which may be improvised as per the local needs. Action plans be executed in the outer deadline of 31.12.2019. The same should be overseen by the Principal Secretaries of Urban Development and Rural Development. There should be periodic monitoring at least once in three months.
11. The MoHUA expressed the view that some of the handicaps put forward by some of the States and the Union Territories are non-existent. The States and Union Territories do not appear to have considered the guidelines¹²/ advisories¹³/ protocols¹⁴ etc. circulated to them by the said Ministry. The same are also available on the website of the Ministry.
12. It is observed that even as per some of proposed plans only 50 to 75 % of the waste produced will be managed by the waste-to-energy plants or waste-to-compost plants or through integrated waste management plants. The rest 25-50% of the current waste will continue to be dumped in the existing dumping grounds or in the new dumping sites. Most of the States have not taken into account the incremental growth in the waste generation in future in the cities which are growing

¹²<http://164.100.228.143:8080/sbm/content/writereaddata/Bulk%20Waste%20Generator%20Book.pdf>

¹³<http://164.100.228.143:8080/sbm/content/writereaddata/Advisory%20on%20decentralised%20composting.pdf>,

<http://164.100.228.143:8080/sbm/content/writereaddata/Waste%20to%20Wealth%20Oct.pdf>

¹⁴<http://164.100.228.143:8080/sbm/content/writereaddata/Star%20Rating%20for%20Garbage%20Free%20Cities%20-%20Flyer.pdf>

exponentially. This will only add to the waste dumps which have already assumed alarming proportions. Moreover, most of the states have no plans to deal with the legacy waste which have already become virtual mountains in some of the cities causing environmental disasters. Only plans which some of the States have made is to cap the legacy waste except for the State of Goa (which has an integrated waste processing and management facility), which may be contrary to the Solid Waste Management Rules, 2016. None of the states have even considered bio-mining, as specified in clause J of Schedule I, as one of the options. What is required to be done is to see if some of the successful models like Indore, Ambikapur, Goa and Udupi can be replicated in their States, if necessary with few modifications and adoption to suit their conditions. Capping of waste directly without adhering to clause J of Schedule I to the Solid Waste Management Rules, 2016 is a matter of grave concern, having regard to the serious pollution potential of legacy waste in the form of leachate and emissions of harmful gases if not treated scientifically. All the States and Union Territories across the board ought to deal with the legacy waste in accordance with the procedure laid down in clause J of Schedule I to the Solid Waste Management Rules, 2016. For convenience, the said clause is reproduced below:

“J. Closure and Rehabilitation of Old Dumps-
Solid waste dumps which have reached their full capacity or those which will not receive additional waste after setting up of new and properly designed

landfills should be closed and rehabilitated by examining the following options:

- (i) Reduction of waste by bio mining and waste processing followed by placement of residues in new landfills or capping as in (ii) below.*
- (ii) Capping with solid waste cover or solid waste cover enhanced with geomembrane to enable collection and flaring / utilisation of greenhouse gases.*
- (iii) Capping as in (ii) above with additional measures (in alluvial and other coarse grained soils) such as cut-off walls and extraction wells for pumping and treating contaminated ground water.*
- (iv) Any other method suitable for reducing environmental impact to acceptable level.*

13. It has also been observed that most of the States have no plans to deal with solid wastes in rural areas and hilly terrains effectively. We know that many rural centres are rapidly turning into urban conglomerates and if their solid wastes are not managed urgently we would be inviting several diseases with disastrous consequences. In these areas the most convenient method adopted is to burn or dump the waste haphazardly and throw them on the hill slopes. What is required to be done is to come out with integrated plans on scientific lines to manage the solid waste which may vary from place to place. For this purpose, it is necessary that a detailed study and consultation with the experts is initiated in right earnest without further delay. It is absolutely mandatory that every state follows Solid Waste Management Rules, 2016 in letter and spirit.

14. Tabular chart furnished by the MoHUA suggesting solution to the problems presented during the interactions is as follows:

S.No.	Problems faced by the States/Union Territories	Solution suggested by the MoHUA
1.	Handling mixed waste	Segregate waste at source and recover/recycle to the extent feasible at different stages. Preferred options: • 50% wet waste - compost/ biomethanization • 30% Dry waste- Recycling • 15% Dry waste- Combustible • 5% Inert waste- Landfill
2.	Land Acquisition	Decentralized processing should be encouraged coupled with source segregation
3.	Financial constraints	• Collect user fee • Levy penalty for polluters • Bulk Waste Generators rules be complied
4.	Lack of capacity	• Hire services of experts • Take help of MoHUA/CPCB
5.	Non-Recyclable Dry Waste Processing	• Maximum of non recyclable dry waste should be used in Cement Plants. • Low value plastic should be used in road construction.

15. Though, we find that the Rules, 2016 provide for review and monitoring mechanism as well as time lines and accountability of the different authorities, the same has not been worked satisfactorily in most of the places. The Tribunal directed compliance of the Rules, 2016 but on ground level the problem continues. Without in any manner disturbing the statutory mechanism, it is necessary to lay down a Tribunal monitored mechanism in exercise of its authority to execute the orders of the Tribunal.

16. The MoHUA has suggested need for Performance Audit as follows:

“Performance Audit

- Central Public Health and Environmental Engineering organization (CPHEEO), technical wing of MoHUA, can extend technical support in performance audit. CPHEEO can also be a member of the core technical committee constituted by NGT for supervising such performance audits.
- Initially performance audit to be conducted for 500 ULBs with population of 1 lakh and above.
- Fees/expenses to be raised by ULBs through various means including levying a surcharge/cess over property tax.”

The parameters suggested are as follows:

	Key Parameters/ Indicators	Description of Parameters/Indicators for physical evaluation
1	Door to Door Collection	Door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises. Transportation in covered vehicles to processing or disposal facilities
2	Source Segregation	Segregation of waste by households into Biodegradable, non-biodegradable, domestic hazardous.
3	Litter Bins & Waste Storage Bins	• Installation of Twin-bin/ segregated litter bins in commercial & public areas at every 50-100 meters. • Installation of Waste storage bins in strategic locations across the city, as per requirement (Unless Binless) • Elimination of Garbage Vulnerable Points .
4	Transfer Stations	Installation of Transfer Stations instead of secondary storage bins in cities with population above 5 lakhs.
5	Separate transportation	• Compartmentalization of vehicles for the collection of different fractions of waste. • Use of GPS in collection and transportation vehicles to be made mandatory at least in cities with population above 5 lakh along with

		the publication of route map.
6	Public Sweeping	• All public and commercial areas to have twice daily sweeping, including night sweeping and residential areas to have daily sweeping.
7	Waste Processing • Wet Waste • Dry Waste • MRF Facility	• Separate space for segregation, storage, decentralised processing of solid waste to be demarcated • Establishing systems for home/decentralised and centralised composting • Setting up of MRF Facilities.
8	Scientific Landfill	• Setting up common or regional sanitary landfills by all local bodies for the disposal of permitted waste under the rules • Systems for the treatment of legacy waste to be established.
9	C&D Waste	Ensure separate storage, collection and transportation of construction and demolition wastes.
10	Plastic Waste	Implementation of ban on plastics below <50 microns thickness and single use plastics.
11	Bulk Waste Generators (BWGs)	Bulk waste generators to set up decentralized waste processing facilities as per SWM Rules, 2016.
12	RDF	Mandatory arrangements have to be made by cement plants to collect and use RDF, from the RDF plants, located within 200 kms.
13	Preventing solid waste from entering into water bodies	Installation of suitable mechanisms such as screen mesh, grill, nets, etc. in water bodies such as nallahs, drains, to arrest solid waste from entering into water bodies.
14	User Fees	Waste Generators paying user fee for solid waste management, as specified in the bye-laws of the local bodies.
15	Penalty provision	Prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the byelaws framed.
16	Notification of Bye Laws	Frame bye-laws incorporating the provisions of MSW Rules, 2016 and ensuring timely implementation.
17	Citizen Grievance Redressal	Resolution of complaints on Swachhata App within SLA.

18	Monitoring mechanism	States/ULBs to update month wise targets/action plans on the online MIS.

17. We accordingly, propose to direct constitution of an Apex Monitoring Committee, Regional Monitoring Committees and State Level Committees to oversee the steps to be taken to give effect to the directions of this Tribunal so that if necessary, further action can be taken in the matter.

18. The role of the Apex Monitoring Committee will be to interact with the concerned Ministries and the Regional Monitoring Committees. The Apex Monitoring Committee may formulate guidelines/directions which may be useful to the Regional Monitoring Committees and the States/Union Territories. The Apex Monitoring Committee may meet preferably every month to take stock of the situation. Outstation members/invitees may participate by video conferencing unless their presence is considered necessary. The Apex Monitoring Committee may have meeting with all the Regional Monitoring Committees at least once in a month for two days to take stock of the progress and fix new targets. The report may be given to the Tribunal by e-mail once in a quarter. The Apex Monitoring Committee may have its website for dissemination of such information as may be necessary and also to enable public participation. The Committee may function for a period of one year subject to any further order.

The constitution of the Apex Monitoring Committee will be as follows:

1.	Hon'ble Mr. Justice D.K. Jain, Former Judge, Supreme Court of India, Former President, NCDRC, Former Chairman, Law Commission of India.	Chairman
2.	Chairman, Central Pollution Control Board	Member
3.	Jt. Secretary of Ministry of Environment, Forest & CC	Member
4.	Jt. Secretary & Mission Director, Swachh Bharat Mission, Ministry of Housing & Urban Affairs, Govt. of India	Member Secretary

The Apex Monitoring Committee will have the following
Special Invitees:

1.	Principal Secretary, Urban Development, Govt. of Goa
2.	Ms. Ritu Sain, IAS Addl. Resident Commissioner, Govt. of Chattisgarh, Chattisgarh
3.	Dr. Asad Wari, Team Leader, SBM, Indore Municipal Corporation, Indore, M.P
4.	Shri C. Srinivasan, Vellore, TN, Project Director-SLRM

The MoHUA will provide all logistic and secretarial support along with functional Secretariat to the Apex Monitoring Committee. The Committee may operate from Delhi. The Apex Monitoring Committee can also use the conference facilities available with the National Green Tribunal (Principal Bench). The Chairman and the special invitees who are either retired or private professionals of the Committee may be provided remuneration in consultation with them.

19. The Regional Monitoring Committees shall ensure effective implementation of the Rules, 2016. The Regional Monitoring

Committees shall also ensure that mixing of bio-medical waste with municipal solid waste does not take place and bio- medical waste and processed in accordance with The Bio-Medical Waste Management Rules, 2016. The Regional Monitoring Committees may meet preferably once in every week or longer intervals as per requirements. Out station members may participate by video conferencing unless physical presence is required. They may interact with Apex Monitoring Committee at suitable intervals. The Regional Monitoring Committees may also have *inter se* interaction as and when necessary. The Regional Monitoring Committees may have interactions with the concerned States at regular intervals. The Regional Monitoring Committees may also consider having their website for the same purpose with the same objective as the Apex Monitoring Committee. The Regional Monitoring Committees if feel appropriate can solicit the service of the Special Invitees of the Apex Monitoring Committee and others whom they think can contribute to the cause of monitoring of the Rules, 2016. The Regional Monitoring Committees may specially consider compliance of the mandate of the Rules, 2016 at or around railway platform, railway tracks, bus stands or other places frequented by public. The Ministry of Railway may appoint Nodal Officers at Central, Zonal or other levels having specific responsibility of compliance of the Rules, 2016. The Regional Monitoring Committees may interact with such officers at appropriate intervals. The report may be given to the Apex Monitoring Committee twice in a quarter. Initially, a report

may also be sent to the Tribunal by the Regional Monitoring Committees after three months of their working. The Regional Monitoring Committees will be paid remuneration and such logistic support as required by Department of Urban Development, Government of Punjab, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal for Northern Zone, Central Zone, Western Zone, South Zone and Eastern Zone respectively. The States will be entitled to recover proportionate expenses from the member States and Union Territories in the respective zones. All the States are advised to maintain the parity with regard to the remuneration of Chairperson of the Regional Monitoring Committees. The Committees may function for a period of one year subject to any further order.

20. The constitution of the Regional Monitoring Committees will be as follows:

North Zone – Chandigarh-Delhi		
1.	Mrs. Rajwant Sandhu, IAS, Former Secretary, GoI & Former Member, CAT	Chairperson
2.	Principal Secretary of Urban Development, Government of Punjab, Punjab	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Jammu & Kashmir, Himachal Pradesh, Haryana, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
4.	Member Secretaries of State PCBs/PCCs of Jammu & Kashmir, Himachal Pradesh, Haryana, Punjab, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
5	Representative of Central Pollution Control Board (CPCB).	Member

Eastern Zone-Kolkata		
1.	Hon'ble Mr. Justice Jayanta Kumar Biswas Former Judge, Calcutta High Court	Chairman
2.	Principal Secretary, Urban Development, Government of West Bengal, Kolkata, West Bengal.	Member Secretary
3.	Principal Secretaries of Urban Development of State of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
4.	Member Secretaries of PCBs/PCCs of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
5.	Representative of CPCB	Member

Western Zone – Mumbai-Pune		
1.	Hon'ble Mr. Justice J.P Devadhar Former Judge, Bombay High Court	Chairman
2.	Principal Secretary, Urban Development, Government of Maharashtra	Member Secretary
3.	Principal Secretaries of Urban Development of Govt. of Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
4.	Member Secretaries of State PCBs/PCCs of Maharashtra, Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
5.	Representative of Central Pollution Control Board	Member

Central Zone – Bhopal		
1.	Hon'ble Mr. Justice K.K.Trivedi Former Judge, Madhya Pradesh High Court	Chairman
2.	Principal Secretaries of Urban Development Government of Madhya Pradesh, Bhopal. Madhya Pradesh.	Member Secretary
3.	Principal Secretary of Urban Development, Government of Chattisgarh and Rajasthan	Member
4.	Member Secretaries of Madhya Pradesh, Rajasthan and Chattisgarh State Pollution Control Boards	Members
5.	Representative of Central Pollution Control Board.	Member

Southern Zone-Chennai		
1.	Hon'ble Mr. Justice P.Jyothimani Former Judge Madras High Court Former Judicial Member, NGT, Southern Bench, Chennai	Chairman
2.	Principal Secretary, Urban Development, Government of Tamil Nadu	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Karnataka, Kerala, Andhra Pradesh, Telangana Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
4.	Member Secretaries of PCBs/PCCs of Tamil Nadu, Karnataka, Kerala, Andhra Pradesh, Telangana and Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
5.	Representative of CPCB	Member

21. There will also be State Level Committees headed by Secretary of the Urban Development Department with Secretary of the Environment Department as Members. The representatives

from the Central Pollution Control Board and State Pollution Control Boards would assist the State Level Committees. The State Level Committees may have interactions with the Local Bodies preferably once in two weeks. The Local Bodies may furnish report to the State Committees twice a month. The State Committees will take a call on technical and policy issues in accordance with the Rules, 2016 consistent with directions of Apex and Regional Monitoring Committees. The Local Bodies may be required to have suitable nodal officers of particular level having regard to the nature of work. For bigger Local Bodies, committees headed by senior officials may be constituted. Public involvement may be encouraged and status of Municipal Solid Waste be put in public domain. The State Level Committees may also function for a period of one year subject to any further order. The report may be given to the Regional Monitoring Committees on monthly basis.

22. The Tribunal is of the view that instead of every Local Body individually floating tenders for different services, standards and technical specifications of available services may be specified by the Department of Urban Development and adopted by Local Bodies. Such services may be hired on laid down standard norms to save time. However, this aspect may be finally gone into by the Committees.

23. The Tribunal is also of the view that the best practices may be compiled including setting up of Control Rooms where citizens can upload photos of garbage which may be looked into by an accountable person specified by the Local Bodies at the Local Level and by State Bodies at the State Level. Such information may be made available by the States on the website of the State Committees and if possible on the websites of Local Bodies also. The mechanism of citizens giving and receiving information may be considered. The Committees may also consider, wherever viable, guidelines for using CCTV cameras already installed or installation of fresh CCTV cameras wherever necessary at dumping or other suitable sites and footage of CCTV Cameras may be viewed at regular basis by suitable authorities. All garbage collection van may be GPS enabled to monitor its regular collection and performance audit may be considered and guidelines laid down.
24. Subject to any further orders of this Tribunal, the Committees will be at liberty to give directions for execution of orders of this Tribunal to any authority. The Committees may resume their work within one month from today. The Apex Monitoring Committee may furnish quarterly reports of its work to the Tribunal.
25. The concerned Ministries at the Centre shall render full support and cooperation to the Apex Monitoring Committee to ensure its effective functioning. Similarly, the Chief Secretaries and

Advisors of each of the States and Union Territories respectively shall also render such support and cooperation to the Regional Monitoring Committees.

26. This order will not in any manner affect the directions issued by the Hon'ble Supreme Court in SMW (C) No(s) 1/ 2015[In Re: Outrage as Parents End Life After Child's Dengue] with regard to garbage disposal in Delhi or otherwise. This order is being passed only for giving effect to the Rules, 2016 and the pre-existing orders of the Tribunal.

27. List the matter after receipt of first such report(s) from the Apex Monitoring Committee and the Regional Monitoring Committees for consideration of the reports. It is also ordered that the video conferencing with all the members of the Apex Monitoring Committee, Regional Monitoring Committees and stakeholders, Urban Development Department of the States shall be organized once in every six months so as to take stock of the progress made during the period. Next such video conferencing would be held on 29th April, 2019.

.....,CP
Adarsh Kumar Goel

.....,JM
Dr. Jawad Rahim

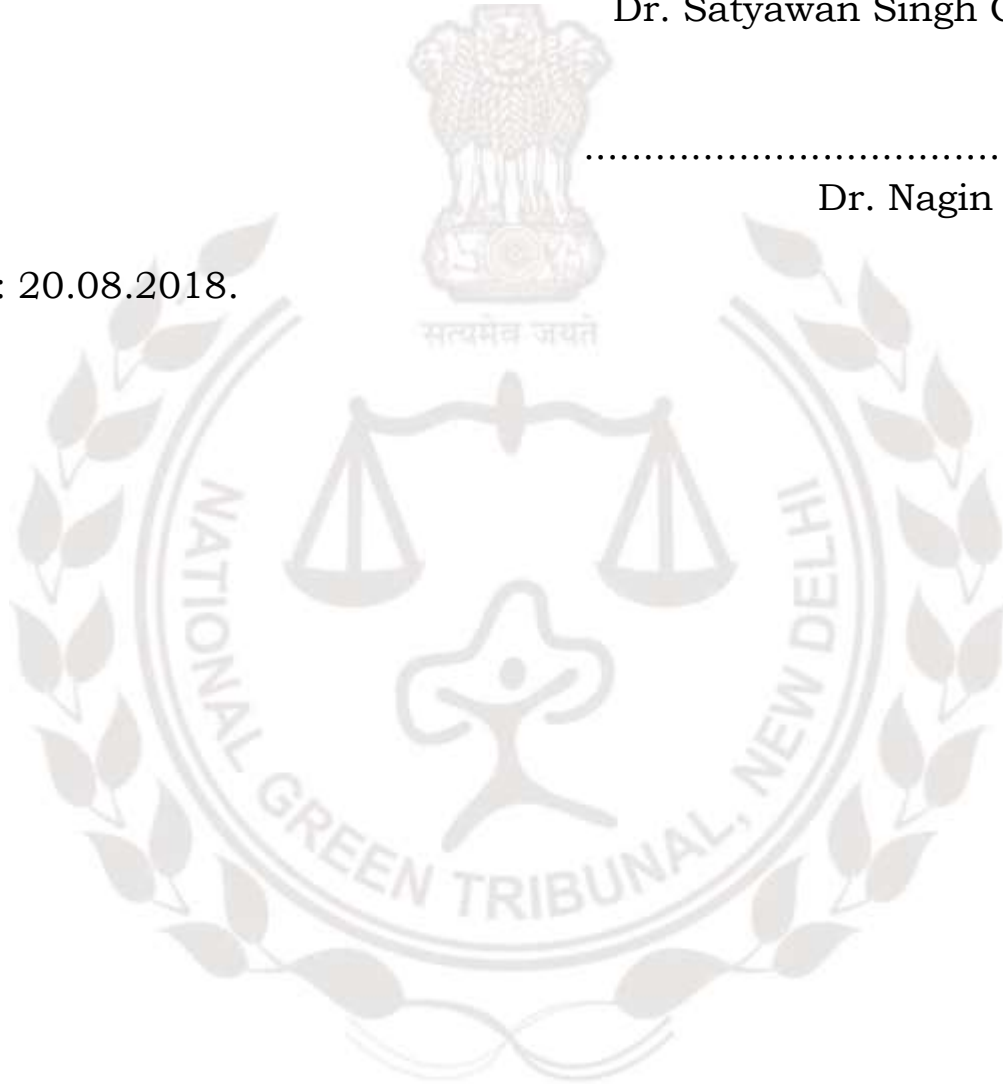
.....,JM
Raghuvendra S. Rathore

.....,JM
S.P.Wangdi

.....,EM
Dr. Satyawan Singh Garbyal

.....,EM
Dr. Nagin Nanda

Dated: 20.08.2018.



NGT

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

Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016

Date of hearing: 16.01.2019

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

For Applicant(s):

For Respondent (s): Mr. Rajkumar, Advocate for CPCB

ORDER

S.No.	CONTENTS	PARA No.
I.	Preface	1-2
II.	Proceedings Before this Tribunal	3-10
III.	Consideration of Reports of Committees	11-17
IV.	Directions on the Reports of the Committees	18
V.	Deliberation	19-26
VI.	Directions	27-38
VII.	Further Proceedings and Conclusion	39-47

I. PREFACE

1. The issue for consideration is the compliance of the Solid Waste Management Rules, 2016 (hereinafter referred to as SWM Rules) in continuation of orders earlier passed on the subject.
2. Twenty-three years back, the problem of MSW was mentioned by Hon'ble Supreme Court as follows:

"Historic city of Delhi- the capital of India- is one of the most polluted cities in the world. The authorities, responsible for pollution control and environment protection, have not been able to provide clean and healthy environment to the residents of Delhi. The ambient air is so much polluted that it is difficult to breath. More and more

*Delhites are suffering from respiratory diseases and throat infections. River Yamuna- the main source of drinking water supply is the free dumping place for untreated sewage and industrial waste. Apart from air and water pollution, the city is virtually an open dustbin. Garbage strewn all over Delhi is a common sight. The Municipal Corporation of Delhi (the MCD) constituted under the Delhi Municipal Corporation Act, 1957 (Delhi Act) and the New Delhi Municipal Council (the NDMC) constituted under the new Delhi Municipal Council Act, 1994 (New Delhi Act) are wholly remiss in the discharge of their duties under law. It is no doubt correct that rapid industrial development, urbanization and regular flow of persons from rural to urban areas have made major contribution towards environmental degradation but at the same time the authorities-entrusted with the work of pollution control cannot be permitted to sit back with folded hands on the pretext that they have no financial or other means to control pollution and protect the environment.” **

After twenty-three years, situation has become worse. 'Swachh Bharat Abhiyan', a noble initiative notwithstanding.

II PROCEEDINGS BEFORE THIS TRIBUNAL

3. The matter was taken up by this Tribunal vide order dated 22.12.2016 in *Almitra Patel & Anr. v. Union of India & Ors., O.A.No. 199/2014*. Proceedings before this Tribunal arose out of a Petition under the Article 32 of the Constitution filed before the Hon'ble Supreme Court of India seeking directions for steps to improve the system of collection, storage, transportation, disposal treatment and re-cycling of municipal solid waste. The said Petition was transferred to this Tribunal from Hon'ble Supreme Court of India. After consideration of the problem of waste disposal in the country and reports of various Committees, it was observed that though rules on the subject have been revised and notified on 08.04.2016, enforcement remained a challenge. The Tribunal noted that the timeline of steps to be taken within one year under

Rule 22 had already expired without the stipulated action being taken. The landfills had gone beyond the permissible heights and were a health hazard. Waste was to be processed in the manner laid down under the rules by preparing appropriate action plans. Accordingly, directions were issued to all the States and UTs to enforce and implement the rules and to prepare action plans relating to management and disposal of waste and to take other steps as mandated under the Rules.

4. In spite of the above, the Annual Report prepared by the CPCB in April, 2018, showed serious deficiencies in compliance of the rules in most of the States. Apart from the Report of the CPCB, non-compliance of the Rules could be seen from frequent grievances being brought before the Tribunal with the photographic evidence of heaps of garbage lying on the streets seeking coercive measures against the statutory authorities for their failures. As per certain studies, the magnitude of problem is India generates over 150,000 tonnes of municipal solid waste (MSW) per day, with Mumbai being the world's fifth most wasteful city. Yet, only 83% of waste is collected and less than 30% is treated. According to the World Bank, India's daily waste generations will reach 377,000 tonnes by 2025.¹ Unless problem is tackled, its impact on health and lives of citizens can be devastating. It is high time that stern measures are taken not only by those in-charge of administering law themselves but also by educating and involving the public at large.
5. The Tribunal thought it appropriate to have interaction with the stakeholders to evolve a mechanism for execution of order already passed in *Almitra Patel & Anr. v. Union of India & Ors.*, O.A. No. 199/2014 to consider the following issues:

¹ <https://www.livemint.com/Opinion/V2CgeiUq89kl1k2fDwJXML/Swachh-Bharats-waste-management-problem.html>

- i. Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?
 - ii. Whether each city/town/urban local body is covered under the said Plan and individual Action Plan has timelines with budgetary provisions?
 - iii. What time has been fixed to completely comply with the provisions of the Rules, 2016?
 - iv. What are the main constraints of non-compliance of Rules, 2016?
6. Accordingly, meetings were held between 02.8.2018 to 20.08.2018 with all the States and UTs which showed that there was substantial non-compliance of the Rules and judgment of the Tribunal in *Almitra Patel (supra)*. Execution of orders of NGT impacting environment generally, though significant, remains a challenge. Merely passing of orders, without their execution defeats the object for which NGT has been set up. Section 25 of the Act confers power of executing court. Mode of execution is laid down in CPC (Section 51), i.e., arrest and detention, appointment of a receiver or in such manner as nature of relief may require. There are provisions for prosecution, including of heads of departments of the Government. On 'Polluter Pays' principle, damages can be recovered not only from the polluters but also from the State functionaries who collude with the polluters. The PCBs and the States have not been fully successful in their performance of duties to protect environment, as noted in judgement of Hon'ble Supreme Court as well as this Tribunal². We thus thought of constituting committees with the involvement of former High Court Judges or senior bureaucrats as a machinery for effective execution of orders of the Tribunal having bearing on public health.
7. Accordingly, the Tribunal, while directing that the action plan be submitted latest by 31.10.2018 after looking into the successful models and executing it

² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors*, O. A. No.95/2018

latest by 31.12.2019 which may be overseen by the Principal Secretaries of Urban Development and Rural Development, constituted the Apex Monitoring Committee (AMC), Regional Monitoring Committees (RMCs), State Level Committees (SLCs) and directed nomination of Nodal Officers at the level of the Local Bodies and Committees for bigger Local Bodies. The role of the RMCs, as per para 19 of the order, required regular meetings to monitor taking necessary steps, including compliance of SWM Rules, 2016 including at or around railway platforms, railway tracks, bus stands or other places frequented by public. The RMCs were directed to ensure that mixing up of bio-medical waste and municipal solid waste does not take place and that bio-medical waste is processed as per the Bio-Medical Waste Management Rules, 2016. The role of State level Committees was specified in para 21 to have interaction with the Local Bodies once in two weeks and to consider the reports of the Local Bodies which were to be given twice a month. The Committees are to complete the task within one year. In para 23, it was directed that guidelines be issued for using CCTV cameras at dumping or other sites and to have garbage collection vans fitted with GPS. The Tribunal also observed that public involvement may be encouraged and the status of waste management be put in public domain including health impacts associated with unscientific disposal. The State Level Committees were to give reports to the Regional Level Committees which were to oversee the compliance of the Rules including preparation and implementation of Action Plans.

8. It was observed that either no Action Plans had been prepared as required under the Rules or the plans prepared proposed only 50% to 75% waste disposal as per Rules. There were no plans for rural areas and hilly terrains. The result was accumulation of legacy waste in the form of huge dumps of garbage and unscientific disposal of waste, impacting the public health, degrading forests and water bodies, apart from causing air pollution.³ Albeit,

³ <https://swachhindia.ndtv.com/nearing-35-years-ahmedabads-pirana-landfill-is-infamous-for-its-garbage-mountains-and-frequent-fires-11855/>- accumulation of waste at Pirana landfill site, Ahmedabad, causing frequent fire,

in certain places efforts are successful to deal with legacy waste⁴, most States are grappling with the issue. Such successful model may be replicated suitably. Accordingly, it was required that integrated plans are prepared on scientific lines to manage the solid waste after detailed study and consultation with the experts. It was also necessary that every State and Union Territory follows the SWM Rules in letter and spirit. There was need for monitoring of the steps required to be taken under the Rules as well as the binding earlier directions of this Tribunal and the Hon'ble Supreme Court. Need for performance audit was also noted.

9. The Tribunal also dealt with the issue of compliance of SWM and associated Rules on railway tracks and railway platforms in *Saloni Singh & Ors. v. Union of India & Ors.*, and directed constitution of teams of responsible officers by the Railway Administration to take steps by framing suitable action plans, removing encroachments and undertaking landscape of vacated land parcel.⁵
10. Certain minor modifications have been made in the said order on two-three occasions to deal with the issues which arose out of implementation of the order dated 20.08.2018 such as honorarium/remuneration, providing logistics and modifications in the manning of the Committees etc⁶.

<https://www.indiatoday.in/education-today/gk-current-affairs/story/ghazipur-garbage-dump-delhi-largest-landfill-site-1329240-2018-09-01>- accumulation of waste at Gazipur dumping site.

⁴ <http://www.xaam.in/2019/01/indore-ias-officer-clears-13-lakh-tons.html>

⁵ O.A. No. 141/2014 order dated 01.10.2018

⁶ (i) Order dated 19.09.2018 in O.A. No. 606/2018: on composition of Eastern Reginal Monitoring Committee to include West Bengal State Pollution Control Board and providing remuneration/honorarium for Chairpersons of the Committees.

(ii) Order dated 12.10.2018 in O.A. No. 606/2018: redefining composition of Northern Reginal Monitoring and constituting a separate Committee for the State of U.P. under the Chairmanship of Justice D.P. Singh

(iii) Order dated 30.10.2018 in O.A. No. 606/2018: directing that the Principal Secretary, Municipal Administration and Water Supply Department, Government of Tamil Nadu will be the Member – Secretary of the Monitoring Committee for the Southern Region instead of Principal Secretary, Urban Development, Tamil Nadu. The Tribunal further emphasized that each village, town and a city of State should have Action Plan management of Municipal Solid Waste, Bio-medical waste, Plastics waste and Construction and Demolition waste as per the respective rules in a time- bound manner. Further, Urban Development Department of the State of Madhya Pradesh was directed to facilitate the working of the Central Regional Monitoring Committee.

(iv) Order dated 20.11.2018 in O.A. No. 606/2018: noting that Central Regional Monitoring Committee has begun its functioning.

III. CONSIDERATION OF REPORTS OF COMMITTEES

11. The matter has been put up for consideration of reports received from Apex and Regional Monitoring Committees. We have perused the reports of the U.P. Solid Waste Management Monitoring Committee dated 25.10.2018 which deals with the general issue; report dated 30.11.2018 which deals with the issue of solid waste management in King George Medical University, Lucknow; report dated 17.11.2018 deals with regard to compliance of the Rules by Baba Raghav Das (BRD) Medical College, Gorakhpur and the report dated 24.12.2018 with regard to the Kumbh Mela.
12. We have perused the 'preliminary' report of the Apex Monitoring Committee dated 03.12.2018, the report of the Regional Monitoring Committees from Southern Zone dated 10.11.2018, report dated 13.11.2018 from Central Zone Regional Monitoring Committee, the report dated 15.11.2018 from the Northern Zone Regional Monitoring Committee and the report dated 04.12.2018 from Eastern Zone Regional Monitoring Committee. The same are taken on record. Copies of the above reports be forwarded to the CPCB for coordination in accordance with Rule 14 of the SWM Rules, 2016. The CPCB may furnish comments and action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.
13. Before we consider the reports from the UP Committee, it may be appropriate to mention that an administrative interaction was held on 04.12.2018 by all the Members of the Tribunal with the Chairpersons of Apex and Regional Monitoring Committees. The progress did not appear to be significant. The impression is fortified by perusing the reports received so far. It is clear that inspite of five months after comprehensive review was undertaken by the

Tribunal and orders were passed, the compliance of order of the Tribunal dated 22.12.2016 in *Almitra Patel (supra)* remains a challenge.⁷ Orders of Tribunal showing serious failure in complying with the Rules include the following- (i) *Venkatesh & Ors. v. Union of India & Ors.*⁸, (ii) *Ankita Sinha v. State of Maharashtra & Ors.*⁹, (iii) *Rakesh Kashyap v. State of Himachal Pradesh & Ors.*¹⁰ (iv) *Sukhdev Vihar Resident's Welfare Association v. State of Delhi & Ors.*¹¹ The above are only illustrative of the grave situation being faced. In view of this, we propose to consider some modifications for more effective results.

14. We now refer to the reports from the UP Committee. In the report dated 30.11.2018, the recommendations have been made for the following action:

- "1. KGMU be saddled with compensatory cost of Rs. 10 lakh which may be deposited in Ayushman Yojana fund, ear-marked for BPL citizens to provide them free treatment.
2. KGMU be directed to strictly comply with the BMW Rules-2016 and the biomedical wastes categories, their segregation, collection, treatment, processing and disposal options be done as per Schedule I of the BMW Rules 2016 and accordingly take appropriate actions within a period of three months.
3. KGMU be directed to be compliant with Rule 4(g), BMW Rules 2016 and provide training to all its health care workers and others, involved in handling of bio medical waste at the time of induction and thereafter at least once every year and the details of training programmes conducted, number of personnel trained and number of personnel not undergone any training shall be provided in the Annual Report.
4. Untreated human anatomical waste, animal anatomical waste, soiled waste and biotechnology waste shall not be stored beyond a period of forty-eight hours as mandated under Rules 8 of BMW Rules 2016.
5. KGMU administration be directed to provide personal protective equipments (PPE) to all the staff engaged in bio-medical waste.
6. KGMU should obtain water and air consent from the UPPCB.
7. KGMU be directed to install STP and ETP immediately, say within four months. 8. KGMU be directed to carry out all routine tests, validation tests, spore tests as per Schedule-II of BMW Rules-2016 forthwith."

⁷ *Mrs. Almitra H. Patel v. U.O.I*, O.A. No. 199/2014 Judgement dated 22.12.2016

⁸ O.A.No. 711 of 2018, order dated 22.10.2018- Illegal dumping of solid waste at Balagur, Bengaluru. BBMP was directed to deposit Rs. 5 Crores as environmental compensation for damage to the environment.

⁹ O.A. No. 510/2018 order dated 30.10.2018- Municipal Solid Waste dumping site at Deonar, Mumbai was not complying with SWM Rules, 2016. Tribunal directed Municipal Corporation, Greater Mumbai to deposit Rs. 5 Crores as environmental compensation with CPCB for restitution of environment.

¹⁰ O.A. No. 189/2017, order dated 27.08.2018- Municipal Corporation, Theog, Shimla illegally permitted dumping of solid waste of forest land. The Tribunal directed shifting of the site and directed Municipal Corporation to pay an amount of Rs. 5 lakhs as environmental compensation.

¹¹ O.A. No. 640/2018 order dated 27.09.2018: Tribunal directed that if the project proponents fail to maintain the standards, even after carrying out the deficiencies noticed in the joint inspection Report, CPCB may recommend the amount of environmental damage required to be paid by them.

15. The report dated 17.11.2018 with regard to compliance of the Rules by Baba Raghav Das Medical College, Gorakhpur, proposes following directions:

- "(i) Admission of children between upto the age of 10 or 15 years brought for treatment in BRD Medical College, Gorakhpur be stopped forthwith for two months, subject, however, to the compliance of the provisions of Bio-Medical Waste (Management and Handling) Rules, 2016. In emergency cases, only those children brought in critical conditions be admitted for treatment, provided the facility for their treatment is not available in other hospitals, private or government.*
- (ii) The BRD Medical College, Gorakhpur and the Government of UP be directed to provide infrastructure for disposal of bio-medical waste strictly in accordance to the Rules of 2016 (supra) within two months.*
- (iii) Cost of rupees five crores or more, as the Hon'ble NGT may in the facts and circumstances deem appropriate, be imposed on the BRD Medical College and the amount of cost so recovered be reimbursed amongst the bereaved families whose children died during the past two years i.e. after the date of notification and coming into force the Rules of 2016. The Medical College must be having the addresses of such families, recorded at the time of admission of their children. Certain portion of said cost be recovered from the salaries of Principal and those officers/officials of the Medical College, who are responsible for non-compliance of the Rules of 2016. The District Magistrate, Gorakhpur may supervise the whole process.*
- (iv) The Medical Council of India be directed to send its team to inspect the BRD Medical College, Gorakhpur and submit report to take appropriate action in the matter and to maintain the standard of medical education in the College. On the basis of the said report and the recommendations, necessary infrastructure be developed and admission of the patients be regulated."*

16. In report dated 24.12.2018 with regard to Kumbh Mela, following recommendations have been made:

"17. We request the Hon'ble NGT to permit the use of fund with UPPCB under environmental compensation corpus to a limited extent under strict supervision of Monitoring Committee and the Principal Secretary, Urban Development for advertisement through posters, audio-visuals, handbills and electronic media, etc in whole of the State of UP in case the Government suffers from financial crunch.

Shri Anurag Yadav, Secretary, Urban Development appears to have got very positive approach and helping in nature. He undertakes that he and his Government shall enforce the decisions taken hereinabove, not only during Kumbh Mela but as far as possible, all over the State. We appreciate the zeal and workaholic nature of Shri Anurag Yadav, IAS, Secretary, Urban Development. The decision taken and reproduced hereinabove in the meeting of the Monitoring Committee may be looked into and

in case the Hon'ble NGT pleases, the same may be approved for future course of action and make it binding on the State Government and its authorities.

It is further requested that in case Hon'ble NGT pleases, alike posters may be prepared in all the States in regional/local language by Chairmen, Monitoring Committees and its soft copy be forwarded to Kumbh Mela Adhikari, State Monitoring Committee/Secretary, Urban Development UP so that posters in different languages may be pasted in Kumbh Mela to educate the people visiting there."

17. We do not propose to take the above reports to the logical end straightaway in these proceedings. The recommendations involve administrative action at the level of Health Department and Urban Development Department of the State. It also involves exercise of statutory powers by the SPCBs. The issues may be first dealt with by concerned administrative and statutory authorities.

IV DIRECTIONS ON THE REPORTS OF THE COMMITTEES

18. Accordingly, recommendations in the reports will stand disposed of with following directions:

(i) The report dated 30.11.2018 with regard to King George Medical University be forwarded forthwith to the Principal Secretary, Health Department, Principal Secretary, Urban Development Department, Uttar Pradesh Pollution Control Board (UPPCB) and the CPCB for being appropriately dealt with.

(ia) The Principal Secretaries, Health Department and Urban Development Department, Uttar Pradesh may take such steps as are in their domain and furnish their action taken reports within one month by e-mail at ngt.filing@gmail.com.

(ib) The UPPCB may exercise powers *inter-alia* under Rule 16 of the SWM Rules, 2016, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and apart

from other steps, determine and recover the amount of damage after following due procedure. Pending such consideration, we direct King George Medical University to deposit interim compensation of Rs. 10 Lakhs with the UPPCB. The UPPCB may spend the amount for restoration of the environment and to help the victims of diseases, wherever necessary and also conduct appropriate health impact study and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(ic) The CPCB may coordinate the matter in terms of Rule 14 of the SWM Rules, 2016 and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(ii) Similarly, report dated 17.11.2018 with regard to Baba Raghav Das (BRD) Medical College may be sent to the above authorities for taking similar action.

(iia) The Principal Secretaries, Health Department and the Urban Development Department, Uttar Pradesh may consider the recommendations and take appropriate action in their domain and furnish their respective reports within one month by e-mail at ngt.filing@gmail.com.

(iib) The UPPCB may exercise of powers *inter-alia* under Rule 16 of the SWM Rules, 2016, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and apart from other steps, determine and recover the amount of damage after following due procedure. Pending such consideration, Baba Raghav Das (BRD) Medical College, Gorakhpur may deposit interim compensation of Rs. 1 Crore with the SPCB. The SPCB may spend the amount for restoration of the environment as well as to help the victims of diseases as may be found viable, after conducting appropriate health impact

study and furnish an action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(iic) The CPCB may coordinate the matter in terms of Rule 14 of the SWM Rules, 2016 and furnish action taken report to this Tribunal within one month by e-mail at ngt.filing@gmail.com.

(iii) The report dated 24.12.2018 may be forwarded to the Kumbh Mela authority. The UPPCB may permit part use of environmental compensation corpus available with it in the manner suggested by the Committee, subject to concurrence of the Committee and the Principal Secretary of the Urban Development, Uttar Pradesh. Copies of the report be sent to the Principal Secretary, Urban Development Department, the UPPCB and the CPCB and they may furnish their action taken reports to this Tribunal within one month by e-mail at ngt.filing@gmail.com, in the manner mentioned earlier in direction (i) and (ii).

V. DELIBERATION

19. As per order dated 20.08.2018, action plans were to be submitted latest by 31.10.2018 and executed by 31.12.2019. Rule 22 of the SWM Rules provides timelines in this regard which are as follows:

<i>Sl. No.</i>	<i>Activity</i>	<i>Time limit from the date of notification of rules</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	Identification of suitable sites for setting up solid waste processing facilities	1 year
2.	Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more	1 year
3.	Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities	2 years

4.	<i>Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source</i>	<i>2 years</i>
5.	<i>Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.</i>	<i>2 years</i>
6.	<i>ensure separate storage, collection and transportation of construction and demolition wastes</i>	<i>2 years</i>
7.	<i>setting up solid waste processing facilities by all Local Bodies having 100000 or more population</i>	<i>2 years</i>
8.	<i>Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population.</i>	<i>3 years</i>
9.	<i>setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules</i>	<i>3 years</i>
10	<i>setting up common or regional sanitary landfills by all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules</i>	<i>3 years</i>
11.	<i>bio-remediation or capping of old and abandoned dump sites</i>	<i>5 years</i>

20. Timelines of two years have expired as rules came into force on 08.04.2016. Timeline of three years is going to expire on 08.04.2019. However, for bio-remediation, timelines of five years has been provided. On 'Polluter Pays' principle, the polluters must be required to pay damages by the concerned authorities. Failure to do so may render the authorities also liable to pay damages as has been directed in several orders of this Tribunal.¹² Performance Guarantee may also be required if there is no improvement.¹³

21. The issue of solid waste management is of paramount importance for protection of environment. Failure to address this issue in a satisfactory manner, impacts air pollution as well as water pollution. It is partly on that

¹² *All India Lokadhikar Sangathan vs. Govt of NCT Delhi & Anr*, E.A No. 11/2017, Date of Order 16.10.2018; *Sobha Singh vs. State of Punjab & Ors.* O.A. No. 916/2018, Date of Order 14.11.2018; *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors.* O.A No. 110 (THC)/2012, Date of Order 04.01.2019; *Ms. Ankita Sinha vs. State of Maharashtra & Ors.* O.A. No. 510/2018, Date of Order 30.10.2018, *Sudarsan Das vs. State of West Bengal & Ors.* O.A. No. 173/2018, Date of Order 04.09.2018; *Court on its Own Motion vs. State of Karnataka*, O.A. No. 125/2017, Date of Order 06.12.2018.

¹³ Ibid.

account that the statistics mentioned in certain studies paint dismal picture of environment in terms of number of deaths and diseases. These studies have already been referred by this Tribunal in certain orders, including the recent order dated 04.01.2019 in *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* (O.A No. 110 (THC)/2012)¹⁴. It was observed:

"28. It is a matter of serious concern that compliance of environment norms is not satisfactory and result is large scale deaths and diseases and serious damage to air, water and earth. As per CPCB report, 351 river stretches in the country are polluted, 102 cities are classified as non-attainment cities in terms of ambient air quality, there are 100 industrial clusters. There is wide gap in compliance of statutory rules for waste disposal, which issues are subject matter of proceedings before this Tribunal.

29. The above shows that in-spite of statutory framework and binding legal precedents and orders, violation of law is rampant. Stern approach is, thus, required against the polluters as well as statutory authorities conniving or colluding with the polluters. The statutory authorities are trustees of the people and if their failure results in harm to the citizens or to the environment, the Court/Tribunal has to adopt strict approach to make them accountable so that such action acts as deterrent to prevent further harm".¹⁵

¹⁴O.A. No. 110 (THC)/2012- *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors.*

¹⁵ (a). O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled *"More river stretches are now critically polluted: CPCB"* dated 20.09.2018: wherein the Tribunal issued directions to prepare and implement Action Plans to rejuvenate and restore the 351 polluted river stretches. (b) Original Application No. 681/2018, 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"* dated 08.10.2018: wherein the Tribunal directed Action Plans to be prepared for the 102 non-attained cities to bring the standards of air quality within the prescribed norms. (c) Original Application No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled *"CPCB to rank industrial units on pollution levels"* dated 13.12.2018: wherein the Tribunal directed preparation of time bound Action Plans to ensure that all industrial clusters comply with the parameters laid down in Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. (d) Original Application No. 606/2018, Compliance of Municipal Solid Waste Management Rules, 2016 dated 31.08.2018: wherein the Tribunal constituted Apex and Regional Monitoring Committees for effective implementation of MSW Rules, 2016.

22. Vide order dated 11.01.2019 in *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors (Original Application No.95/2018)*¹⁶ it was observed:

*"It is well acknowledged that there is serious threat to the environment in this country. Studies show huge number of pollution related deaths and diseases. Any violation of laid down environmental norms has to be seriously viewed and sternly dealt with."*¹⁷

23. Again vide order dated 11.01.2019 in *"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" (Original Application No. 681/2018)*¹⁸ it was observed:

*"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 Mumbai, Kolkata, Bangalore and Chennai are reported to be between 5,000-10,000 in 2016."*¹⁹

24. Concept of sustainable development which guides this Tribunal under Section 20 of the NGT Act, 2010 cannot be upheld unless the above issues of massive degradation of environment are handled on war footing. Directions have been issued by this Tribunal to prepare action plans for restoration of 351 polluted river stretches, restoration of air quality in 102 "non-attainment cities", restoration of environment in 100 critically polluted

¹⁶ Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors, O.A. No.95/2018

¹⁷https://niti.gov.in/writereaddata/files/new_initiatives/presentation-on-CWMI.pdf- India ranks 120th in 122 countries in Water Quality Index as per Niti Ayog Report, <https://www.thehindu.com/sci-tech/energy-andenvironment/india-ranked-no-1-in-pollution-related-deaths-report/article19887858.ece>- Most pollution-linked deaths occur in India, <https://www.hindustantimes.com/india-news/delhi-world-s-most-polluted-city-mumbai-worse-than-beijing-who/story-m4JFT063r7x4Ti8ZbHF7mM.html>- Delhi's most polluted city, Mumbai worse than Beijing as per WHO; http://www.un.org/waterforlifedecade/pdf/global_drinking_water_quality_index.pdf- WHO Water Quality Index

¹⁸ 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" O.A. No. 681/2018-<http://www.greentribunal.gov.in/DisplayFile.aspx>

¹⁹<https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

industrial clusters and compliance of directions of SWM Rules, 2016 apart from the directions for effective regulations of sand mining²⁰, regulation of ground water²¹.

25. The above directions with regard to polluted rivers, polluted air, polluted industrial clusters and issues of illegal sand mining are also inter-linked with compliance of SWM Rules, 2016 as also with Hazardous and Other Wastes Management Rules, 2016, Bio-medical Wastes Management Rules, 2016, Construction and Demolition Wastes Management Rules, 2016 and Plastics Wastes Management Rules, 2016, E-waste (Management) Rules, 2016 etc. A holistic view is required to be taken. All factors degrading environment need to be addressed in an integral manner. This is to be guided by the principle of 'Sustainable Development'. This requires coordination with several authorities of a State. Such coordination, having regard to serious impact on health and environment must be coordinated at the highest level periodically. This requires involvement of Chief Secretaries/Administrators of all the States and UTs. We have noted in several orders that compliance is a serious issue and satisfactory progress is not being achieved.²²
26. As noted earlier in para 13, it may be appropriate to mention that an administrative interaction was held on 04.12.2018 by all the members of the Tribunal with the Chairpersons of Apex and Regional Monitoring Committees. The progress did not appear to be significant. The impression is fortified by perusing the reports so far received. It is clear that inspite of five months after comprehensive review was undertaken by the Tribunal and orders were passed, the compliance of order of the Tribunal dated 22.12.2016 in *Almitra Patel (supra)* remains a challenge. The pattern of Committees needs

²⁰ *Sudarsan Das vs. State of West Bengal & Ors.* O.A. No. 173/2018 Order dated 04.09.2018

²¹ *Shailesh Singh vs. Hotel Holiday Regency, Moradabad & Ors.* O.A. No. 176/2015, order dated 3.1.2019

²² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors* O.A. No.95/2018

modification. Coordination at Regional level does not appear to be as effective as expected.

VI. DIRECTIONS

27. Instead of having Regional Monitoring Committees constituted vide order dated 20.08.2018, the State Level Committees may function in the modified form as is being now directed. Chairpersons of the Regional Committees may continue to be the Chairpersons of the particular State/UT Committee as mentioned below. Other Members may be the officers of the particular respective State.

28. In this respect, following directions/clarifications are issued:

- i. For all the States and UTs, the Member Secretaries of the PCBs/PCCs will be the Member Secretaries of the Committees, other members being Secretaries, Urban Development/Local Bodies/Local Self-Government, Environment, Rural Development Health and representatives of CPCB, wherever office of CPCB exists or representative is nominated by CPCB. Logistics and honorarium will be provided by the respective SPCB/PCCs which can be met out from Environment Compensation funds on the basis of 'Polluter Pays' principle or otherwise. If SPCBs/PCCs do not have requisite funds to provide logistic support, CPCB will provide funds to SPCBs/PCCs. In case of any difficulty, CPCB may coordinate any such issues. The honorarium will be paid as per order of the Tribunal in this matter dated 19.09.2018²³ and in *Amresh Singh v. Union of India & Ors.*²⁴ Where the Chairperson is receiving remuneration/honorarium in

²³ See order dated 19.9.2018 of this Tribunal in O.A No. 606/2018 to the effect that the non-official Chairperson will be paid consolidated amount equal to basic pay of the post held by the incumbent. A former Judge of Hon'ble Supreme Court will be entitled to Rs. 2.50 Lakhs per month. A former Judge of the High Court will be paid Rs. 2.25 Lakhs per month. On same pattern, remuneration may be fixed for any other retired Member.

²⁴ a. E.A. No.32/2016 order dated 15.11.2018- Clarifying that while the State may provide the logistics and other facilities, the financial aspects may be taken care of by the State Pollution Control Boards/Committees. The financial aspects will include the remuneration or other incidental expenses which may be increased with

one Committee constituted by the NGT, he may not receive extra/double remuneration but may be provided requisite logistics as may be required. The Committees may work tentatively for six months or as may be found necessary.

ii. Chairpersons will be as follows:

S.No.	State/UT	Chairperson
1	Andhra Pradesh	Justice B. Seshasayana Reddy, former Judge, Andhra Pradesh High Court
2	Assam	Mr. Ranjit Shekhar Mooshahary, IPS former Governor of Meghalaya
3	Bihar	Justice Samarendra Pratap Singh, former Judge, Patna High Court
4	Chhattisgarh	Justice Dhirendra Mishra, Former Judge, High Court of Chhatisgarh
5	Gujarat	Justice Babulal Chandulal Patel, former Chief Justice, High Court of Delhi and former Judge of Gujarat High Court.
6	Haryana	Justice Pritam Pal, former Judge, High court of Punjab and Haryana*
7	Himachal Pradesh	Mrs. Rajwant Sandhu, former Chief Secretary of Himachal Pradesh *
8	Jammu & Kashmir	Justice Janak Raj Kotwal, former Judge, High Court of Jammu & Kashmir.*
9	Jharkhand	Justice Ramesh Kumar Merathia, former Judge, High Court of Jharkhand.*
10	Karnataka	Justice Subhash B. Adi, former Judge, High Court of Karnataka.
11	Kerala	Justice A.V Ramakrishna Pillai, former Judge, High Court of Kerala
12	Madhya Pradesh	Justice K.K Trivedi, former Judge, High Court of Madhya Pradesh.

a view to effectively execute the directions of this Tribunal. Such expenses may include secretarial assistance, travel as well as cost incurred for any technical assistance.

b. Apart from remuneration, all actual expenses incurred in taking assistance for secretarial working will be reimbursed by concerned PCB as already directed vide order dated 17.12.2018 E.A. No.32/2016, *Amresh Singh v. Union of India & Ors.*

13	Maharashtra	Justice J.P Devadhar, former Judge, High Court of Bombay.*
14	Manipur	Mr. Jarnail Singh, Ex-Chief Secretary, Manipur.
15	Odisha	Justice P.K. Mohanty, former Judge, Odisha High Court.
16	Punjab	Justice Pritam Pal, former Judge, High court of Punjab and Haryana*
17	Rajasthan	Justice Deepak Maheswari, former Judge, Rajasthan High Court
18	Sikkim	Justice A.P Subba, former Judge, High Court of Sikkim.
19	Tamil Nadu	Justice P. Jyothimani, former Judge, Madras High Court, former Judicial Member, NGT.
20	Telangana	Justice C.V. Ramulu, former Judge Andhra High Court.
21	Uttar Pradesh	Justice Devi Prasad Singh, former Judge, High Court of Allahabad. *
22	Uttarakhand	Justice U.C Dhyani, former Judge, High Court of Uttarakhand. *
23	West Bengal	Justice J.K Biswas, former Judge, High Court of Calcutta.* ²⁵

29. In other States/UTs, the Chief Secretaries/Administrators will be the Chairpersons, other members and Member Secretaries being same as mentioned earlier. The Committees may hold their first meeting positively before 15.02.2019 and thereafter hold meetings periodically as may be found necessary as per direction of the Chairperson of the Committee.
30. The Committee constituted under Rule 5,12 & 23 of the SWM Rules, 2016 will continue to work in tandem with the State Level Committees and the

²⁵ *Already appointed in other Committees of NGT

frequency of their meeting will be jointly worked out by the State Level Committee and the Committees constituted under the SWM Rule.

31. The CPCB may prepare Standard Operating Procedure (SOP) for implementation of Clause (J) to the Schedule-I of the SWM Rules, 2016 relating to Bio-mining and disposal of legacy waste within one month after considering successful modes, to be customized according to local conditions and circulate the same to the SPCBs and PCCs who in-turn may communicate to the Chief Secretary for implementation. CPCB will also convey these guidelines to MoHUA, Apex and State Level Committees and coordinate with them as per Rule 14 of SWM Rules.
32. The District Collectors under Rule 12 of SWM Rules, 2016 may meet monthly and forward the report to State Urban Development Department and send copy to the State Level Committee. The Committees may get report from District Collector once a month.
33. The Apex Monitoring Committee may interact with the State Committees in such manner as may be found necessary and give its report to this Tribunal once in a quarter. Apex Monitoring Committee may interact with the State Level Committees atleast once in a month. Chairpersons of the State Level Committee will be at liberty to visit the District Collector and other local authorities.
34. The expression 'remuneration' used in earlier orders will stand substituted by 'honorarium'.
35. Every State/UT may constitute a Special Task Force (STF) in every District having four members one each nominated by District Magistrate, Superintendent of Police, Regional Officer of the State Pollution Control Boards in concerned Districts and one person to be nominated by the

Chairman of the District Legal Services Authority (DLSA) for awareness about the SWM Rules, 2016 by involving educational, religious and social organizations including local Eco-clubs. The involvement of DLSA would be subject to the approval of the National Legal Services Authority which is the apex body under the Legal Services Authorities Act, 1987 by an appropriate administrative order. This will apply to order of the Tribunal in *Stench Grips Mansa's Sacred Ghaggar River (Suo-Moto Case) and Yogendra Kumar*²⁶, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB"²⁷, Court on its own Motion v. NCT, Delhi & Ors.²⁸ and *M.C.Mehta v. Union of India & Ors.*²⁹

36. It has been repeatedly laid down by the Hon'ble Supreme Court that Information, Education and Communication (IEC) programmes can go a long way for protection of the environment. Such program can be successful if network of Legal Services Authorities and Educational Institutions at every level is involved. This is possible only if such instructions are issued on the administrative side by the NALSA and concerned Education Departments of the States. We request concerned authorities to take appropriate steps in view of the judgments of the Hon'ble Supreme Court in *M.C. Mehta v. Union of India & Ors.*³⁰ and *In Re: Noise Pollution* and Article 144 of the Constitution of India ³¹ Ministry of Health and Ministry of Railways in coordination with MoEF&CC may be involved in awareness programmes. Solid waste management issue impacts in a big way. Various departments of the Government, particularly Railway, Health and Defence. MoEF&CC may coordinate with the concerned

²⁶ O.A. No. 138/2016 order dated 27.08.2018

²⁷ O.A.No. 673/2018, order dated 20.09.2018

²⁸ Suo Moto Application No. 290/2017, order dated 24.10.2018

²⁹ O.A. No. 200/2014 order dated 29.11.2018

³⁰ (2004)1 SCC 571

³¹ (2005)5 SCC 733

Ministries in IEC programmes and furnish an Action Taken Report by email at ngt.filing@gmail.com.

37. We also make it clear that the rule of law has to be upheld. This Tribunal has laid down that the State itself is liable to pay compensation for its failure to perform duties in upholding environmental norms and can also be held liable for paying damages which may be recovered from the polluters and the erring officers.³²

38. We have already noted that 'Polluter Pays' principle can be applied by every regulatory authority and compensation can be and must be recovered from every polluter and the amount which is to be recovered spent for the restoration of the environment.³³ On the pattern of order dated 19.12.2018³⁴, the compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches. The Tribunal may have to consider direction to require compensation to be paid for damage to the environment on monthly basis with incremental scale for the delay in compliance of the Rules. This aspect will be considered in the light of progress achieved by

³² *Aryavart Foundation v. M/s Vapi Green Enviro Ltd. & Ors* (O.A. No.95/2018) order dated 11.01.2019- wherein this Tribunal reiterated that 'Polluter Pays' principle is ingrained in the environmental jurisprudence of the country as well as statutory mandate under Section 20 of the NGT Act, 2010.; *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* (O.A No. 110 (T_{HC})/2012) order dated 04.01.2019- wherein this Tribunal held that it is necessary that the state machinery is required to compensate for their negligence and failure which may act as deterrent against the officers who neglected their basic duty of protecting the environment or colluded with the polluters and law violators. This is required not only as a part of principle of 'polluter pays' which applies not only to actual polluters but also to those who collude with polluters or enable pollution to be caused and also for the negligence of public duties, adversely affecting the citizens.

³³ *Threat to life arising out of coal mining in south Garo Hills district v. State of Meghalaya & Ors* O.A. No. 110(T_{HC})/2012

³⁴ News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (O.A. No. 673/2018) vide order dated 19.12.2018- wherein this Tribunal held that compensation for damage to the environment will be payable by each of the States/ UTs at the rate of Rs. One Crore per month for each of the Priority- I and Priority- II stretches, Rs. 50 lacs per month for stretches in Priority- III and Rs. 25 lacs per month each for Priority- IV and Priority- V stretches.

the concerned States/UTs as may be shown from the reports furnished to this Tribunal by the Chief Secretaries or otherwise. On this aspect, CPCB, MoEF & CC and the Apex Committee may furnish their views on the subject within one month at ngt.filing@gmail.com.

VII. FURTHER PROCEEDINGS AND CONCLUSION

39. Accordingly, we direct the Chief Secretaries/Administrators of all States and UTs to review the progress on all the above issues and for the purpose, hold first meeting within one month from today. After the Chief Secretaries have monitored the matters, the Status Reports of compliance and immediate future plans may be presented/filed before this Tribunal. For this purpose, we direct the Chief Secretaries to remain present in person along with their reports on different dates mentioned below starting from 1st March, 2019 at 2:00 P.M:

S.No.	State/UT	Date of Meeting
1	Jammu & Kashmir	01.03.2019
2	Himachal Pradesh	05.03.2019
3	Haryana	06.03.2019
4	Punjab	07.03.2019
5	Uttarakhand	08.03.2019
6	NCT Delhi	11.03.2019
7	Uttar Pradesh	12.03.2019
8	Chandigarh	13.03.2019
9	West Bengal	14.03.2019
10	Bihar	15.03.2019
11	Jharkhand	25.03.2019
12	Odisha	26.03.2019
13	Arunachal Pradesh	27.03.2019
14	Assam	28.03.2019

15	Tripura	29.03.2019
16	Manipur	01.04.2019
17	Meghalaya	02.04.2019
18	Mizoram	03.04.2019
19	Nagaland	04.04.2019
20	Sikkim	05.04.2019
21	Maharashtra	08.04.2019
22	Gujarat	09.04.2019
23	Goa	10.04.2019
24	Daman & Diu	11.04.2019
25	Dadra and Nagar Haveli	12.04.2019
26	Madhya Pradesh	15.04.2019
27	Rajasthan	16.04.2019
28	Chattisgarh	22.04.2019
29	Tamil Nadu	23.04.2019
30	Karnataka	24.04.2019
31	Kerala	25.04.2019
32	Andhra Pradesh	26.04.2019
33	Telangana	29.04.2019
34	Puducherry	30.04.2019
35	Andaman & Nicobar Islands	01.05.2019
36	Lakshadweep Islands	02.05.2019

40. The Chief Secretaries may acquaint and keep themselves ready on the following points:

- a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.
- b. Status of functioning of Committees constituted by this order.
- c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in "The Hindu" authored

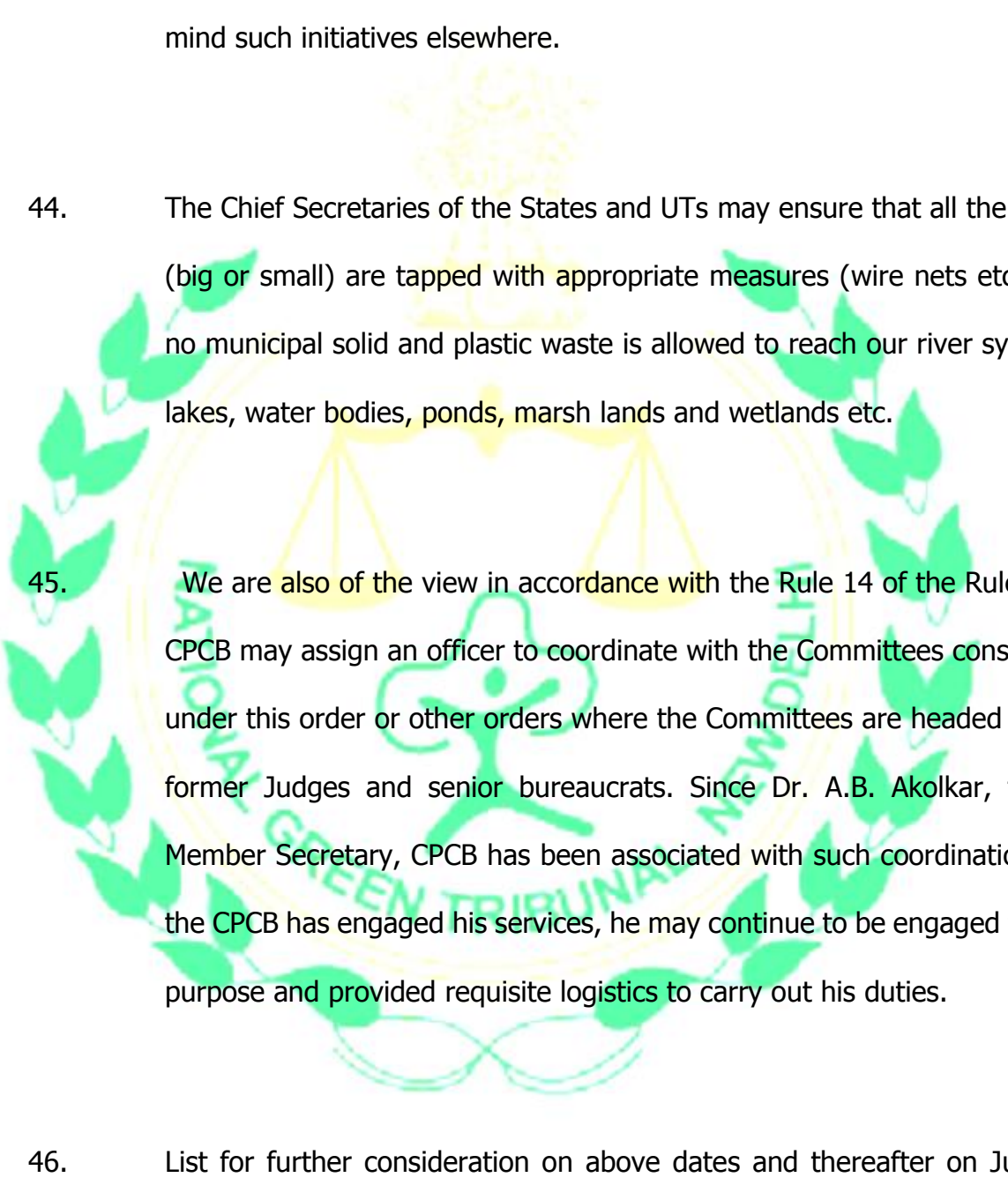
by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

- d. Status of functioning of Committees constituted in 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" dated 08.10.2018
- e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018.
- f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.
- g. Total amount collected from erring industries on the basis of 'Polluter Pays' principle, 'Precautionary principle' and details of utilization of funds collected.
- h. Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State.

41. It is made clear that Chief Secretaries may not delegate the above function and the requirement of appearance before this Tribunal to anyone else. However, it will be open to them to change the date, by advance intimation by email at NGT website i.e. ngt.filing@gmail.com, to adjust their convenience.

42. The States will also display on their respective websites and the websites of the Pollution Control Boards/Committees the progress made on each of the above issues, consistent with directions in some of the earlier order, including the order dated 19.12.2018 in *News item published in "The*

Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

- 
43. MoEF & CC may coordinate with the concerned organizations/association of industries to indicate a programme to reduce the quantum of waste by appropriate strategies including use of less packaging material keeping in mind such initiatives elsewhere.
44. The Chief Secretaries of the States and UTs may ensure that all the drains (big or small) are tapped with appropriate measures (wire nets etc.) and no municipal solid and plastic waste is allowed to reach our river systems, lakes, water bodies, ponds, marsh lands and wetlands etc.
45. We are also of the view in accordance with the Rule 14 of the Rules, the CPCB may assign an officer to coordinate with the Committees constituted under this order or other orders where the Committees are headed by the former Judges and senior bureaucrats. Since Dr. A.B. Akolkar, former Member Secretary, CPCB has been associated with such coordination and the CPCB has engaged his services, he may continue to be engaged for the purpose and provided requisite logistics to carry out his duties.
46. List for further consideration on above dates and thereafter on July 10, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 16, 2019
Original Application No. 606/2018
AK



Item No. 01

Court No. 1

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

Original Application No. 606/2018

Compliance of Municipal Solid Waste Management Rules, 2016
(States of Punjab and Uttar Pradesh and UT Chandigarh)

Date of hearing: 10.01.2020

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

For Respondent(s): Mr. Karan A. Singh, Chief Secretary, State of Punjab with Mr. Sanjay Kumar, Addl. Secy. and Mr. R.K. Verma, Principal Secy. State of Punjab
Mr. Rajendra Kumar Tiwari, Chief Secretary, State of Uttar Pradesh with Mr. Manoj Kumar Singh, Principal Secy., Urban Development, UP and Mr. Ashish Tiwari, M.S., UPPCB
Mr. Manoj Parida, IAS, Advisor to Administrator, UT Chandigarh with Mr. Debendra Dalai, IFS, CCF & Director (Env't.) and Mr. K.K. Yadav, IAS, Commissioner (CMC)
Mr. P. Gargawa, M.S., CPCB
Mr. A. Sudhakar, DH-WQM-I, CPCB

ORDER

S. No.	CONTENT	PARA No.
I	Preface	1
II	Orders of the Hon'ble Supreme Court transferring the issue of Solid Waste Management and Liquid Waste Management to this Tribunal.	2-6
III	Proceedings Before this Tribunal in pursuance of orders of the Hon'ble Supreme Court till date	7-21
IV	Recent orders of the Hon'ble Supreme Court dated 25.11.2019 and 13.01.2020 having bearing on the matter (M.C. Mehta vs. Union of India, W.P. No. 13029/1985)	22-23
V	25th Report dated 12.02.2019 of the Standing Committee on Urban Development, 16th Lok Sabha on the issue of solid waste management including hazardous waste, medical waste and e-waste	24
VI	Further consideration of the matter in today's hearing	25-35
VII	Directions	36

I. PREFACE:

1. The matter has been put up today in continuation of proceedings on the subject of monitoring execution of orders of this Tribunal on the subject of compliance of waste management (solid and liquid) and other environmental issues, particularly air pollution, in the States of Punjab, Uttar Pradesh and UT Chandigarh in terms of earlier orders of this Tribunal and orders of the Hon'ble Supreme Court.

II. ORDERS OF THE HON'BLE SUPREME COURT TRANSFERRING THE ISSUE OF SOLID WASTE MANAGEMENT AND LIQUID WASTE MANAGEMENT TO THIS TRIBUNAL:

2. It is necessary to set out brief background of the proceedings. The Hon'ble Supreme Court vide order dated 02.09.2014 in *Writ Petition No. 888/1996, Almitra H. Patel Vs. Union of India & Ors.*, transferred proceedings pending before it on the subject of solid waste management¹.
3. The matter was earlier considered by the Hon'ble Supreme Court *inter-alia* vide judgments reported in (2000) 2 SCC 678 and (2004) 13 SCC 538 directing scientific disposal of waste by setting up of compost plants, preventing water percolation through heaps of garbage, creating focused '**solid waste management cells**' in all States and complying with the Municipal Solid Waste Management Rules, 2016 (SWM Rules, 2016) on urgent basis. **It was observed**

¹ Operative part of the order of the Hon'ble Supreme Court reads:

"Enforcement of the Rules and efforts to upgrade the technology relevant to the handling of solid municipal waste is a perennial challenge and would require constant efforts and monitoring with a view to making the municipal authorities concerned accountable, taking note of dereliction, if any, issuing suitable directions consistent with the said Rules and direction incidental to the purpose underlying the Rules such as upgradation of technology wherever possible. **All these matters can, in our opinion, be best left to be handled by the National Green Tribunal established under the National Green Tribunal Act, 2010.** The Tribunal, it is common ground, is not only equipped with the necessary expertise to examine and deal with the environment related issues but is also competent to issue in appropriate cases directions considered necessary for enforcing the statutory provisions."

that the local authorities constituted for providing services to the citizens are lethargic and insufficient in their functioning which is impermissible. Non-accountability has led to lack of effort on the part of the employees. Domestic garbage and sewage along with poor drainage system in an unplanned manner contribute heavily to the problem of solid waste. The number of slums have multiplied significantly occupying large areas of public land. Promise of free land attracts more land grabbers. **Instead of “slum clearance” there is “slum creation” in cities which is further aggravating the problem of domestic waste being strewn in the open.** Accordingly, the Court directed that provisions pertaining to sanitation and public health be complied with, streets and public premises be cleaned daily, **statutory authorities levy and recover charges from any person violating laws and ensure scientific disposal of waste**, landfill sites be identified keeping in mind requirement of the city for next 20 years and environmental considerations, sites be identified for setting up of compost plants, steps be taken to prevent fresh encroachments and compliance report be submitted within eight weeks.

4. Further observations in the judgment of the Hon’ble Supreme Court are:

“3. The petitioner has handed over a note in the Court showing the progress that has been made in some of the States and also setting out some of the suggestions, including the suggestion for creation of solid waste management cell, so as to put a focus on the issue and also to provide incentives to those who perform well as was tried in some of the States. The said note states as under:

- “1. As a result of the Hon’ble Supreme Court’s orders on 26-7-2004, in Maharashtra the number of authorisations granted for solid waste management (SWM) has increased from 32% to 98%, in Gujarat from 58% to 92% and in M.P. from NIL to 34%. No affidavits at all have been received*

from the 24 other States/UTs for which CPCB reported NIL or less than 3% authorisations in February 2004. All these States and their SPCBs can study and learn from Karnataka, Maharashtra and Gujarat's successes.

2. **All States/UTs and their SPCBs/PCCs have totally ignored the improvement of existing open dumps, due by 31-12-2001**, let alone identifying and monitoring the existing sites. Simple steps can be taken immediately at almost no cost by every single ULB to prevent monsoon water percolation through the heaps, which produces highly polluting black run-off (leachate). Waste heaps can be made convex to eliminate standing water, upslope diversion drains can prevent water inflow, downslope diversion drains can capture leachate for recirculation onto the heaps, and disused heaps can be given soil cover for vegetative healing.
3. **Lack of funds is no excuse for inaction. Smaller towns in every State should go and learn from Suryapet in A.P. (population 103,000) and Namakkal in T.N. (population 53,000) which have both seen dustbin-free 'zero garbage towns' complying with the MSW Rules since 2003 with no financial input from the State or the Centre, just good management and a sense of commitment.**
4. **States seem to use the Rules as an excuse to milk funds from the Centre, by making that a precondition for action and inflating waste processing costs 2-3 fold. The Supreme Court Committee recommended 1/3 contribution each from the city, State and Centre. Before seeking 70-80% Centre's contribution, every State should first ensure that each city first spends its own share to immediately make its wastes non-polluting by simple sanitising/stabilising, which is always the first step in composting viz. inoculate the waste with cow dung solution or bio culture and placing it in windrows (long heaps) which are turned at least once or twice over a period of 45 to 60 days.**
5. **Unless each State creates a focussed 'solid waste management cell' and rewards its cities for good performance, both of which Maharashtra has done, compliance with the MSW Rules seems to be an illusion.**
6. **The admitted position is that the MSW Rules have not been complied with even after four years. None of the functionaries have bothered or discharged their duties to ensure compliance. Even existing dumps have not been improved. Thus deeper thought and urgent and immediate action is necessary to ensure compliance in future."**

5. In this regard, reference may also be made to orders of Hon'ble Supreme Court in *Municipal Council, Ratlam vs. Vardhichand*² and *B.L. Wadhera v. Union of India and Ors.*³ laying down that **clean environment is fundamental right of citizens under Article 21** and it is for the local bodies as well as the State to ensure that public health is preserved by taking all possible steps. **For doing so, financial inability cannot be pleaded.**

6. The Hon'ble Supreme Court also dealt with the issue of liquid waste management and after issuing requisite directions, required this Tribunal to monitor the compliance. Directions of the Hon'ble Supreme Court include steps for liquid waste management by setting up requisite treatment plants for which funds are to be generated by the local bodies and the States as per constitutional provisions.⁴

² (1980) 4 SCC 162

³ (1996) 2 SCC 594

⁴ "10. Given the responsibility vested in municipalities under Article 243-W of the Constitution, as also, in Item 6 of Schedule XII, wherein the aforesaid obligation, pointedly extends to "public health, sanitation conservancy and solid waste management", we are of the view that the onus to operate the existing common effluent treatment plants, rests on municipalities (and/or local bodies). Given the aforesaid responsibility, the municipalities (and/or local bodies) concerned, cannot be permitted to shy away from discharging this onerous duty. **In case there are further financial constraints, the remedy lies in Articles 243-X and 243-Y of the Constitution. It will be open to the municipalities (and/or local bodies) concerned, to evolve norms to recover funds,** for the purpose of generating finances to install and run all the "common effluent treatment plants", within the purview of the provisions referred to hereinabove. **Needless to mention that such norms as may be evolved for generating financial resources, may include all or any of the commercial, industrial and domestic beneficiaries, of the facility.** The process of evolving the above norms, shall be supervised by the State Government (Union Territory) concerned, through the Secretaries, Urban Development and Local Bodies, respectively (depending on the location of the respective common effluent treatment plant). **The norms for generating funds for setting up and/or operating the "common effluent treatment plant" shall be finalised, on or before 31-3-2017, so as to be implemented with effect from the next financial year. In case, such norms are not in place, before the commencement of the next financial year, the State Governments (or the Union Territories) concerned, shall cater to the financial requirements, of running the "common effluent treatment plants", which are presently dysfunctional, from their own financial resources.**

11. **Just in the manner suggested hereinabove, for the purpose of setting up of "common effluent treatment plants", the State Governments concerned (including, the Union Territories concerned) will prioritise such cities, towns and villages, which discharge industrial pollutants and sewer, directly into rivers and water bodies.**

13. We are of the view that mere directions are inconsequential, unless a rigid implementation mechanism is laid down. The said data shall be furnished to the Central Ground Water Authority, which shall evaluate the data and shall furnish the same to the Bench of the jurisdictional National Green Tribunal.

III. PROCEEDINGS BEFORE THIS TRIBUNAL IN PURSUANCE OF ORDERS OF THE HON'BLE SUPREME COURT TILL DATE:

Solid Waste Management:

Order dated 22.12.2016:

7. This Tribunal considered the matter of solid waste management after notifying all the concerned States/Regulatory Bodies and finally disposed of the same on 22.12.2016⁵ requiring all the States/UTs to follow the SWM Rules, 2016 after preparing requisite action plans in a time bound manner with further direction that **any State/UT which failed to comply with the Rules shall be liable to be proceeded against under Section 15 of the Environment (Protection) Act, 1986 (EP Act), apart from being required to pay environmental compensation and senior most officers of the States/Local Bodies being personally liable.** The directions also include requirement for segregation of waste, providing buffer zone around plants and landfill sites and due monitoring. The States/Local Bodies were also to create market for consumption of RDF. Tipping fee was to include the efficient and regular monitoring of waste processing plant, segregation of inert and C&D material and its transportation. Landfill sites were required to be bio-stabilized preventing leachate and generation of Methane, enforcement of Extended Producer Responsibility, rights and liabilities under contracts being made consistent with the Rules, creating public awareness about the facilities available at regular intervals. **Copy of**

14. **To supervise complaints of non-implementation of the instant directions, the Benches concerned of the National Green Tribunal, will maintain running and numbered case files, by dividing the jurisdictional area into units. The abovementioned case files will be listed periodically.** The Pollution Control Board concerned is also hereby directed to initiate such civil or criminal action, as may be permissible in law, against all or any of the defaulters.”

⁵ O.A. No. 199/2014 (2016) SCC Online NGT 2981

the judgment was circulated to all the Chief Secretaries/ Advisors of States/UTs.

8. **Execution of above directions has been subject matter of further proceedings in the last more than three years after the said order and after almost 20 years after the orders of the Hon'ble Supreme Court.**

Order dated 20.08.2018:

9. Reference may be now made to some further significant orders. Vide order dated 20.08.2018⁶, after referring to earlier proceedings and a chamber meeting with all the concerned stakeholders, the Tribunal considered the following questions:

- "i. Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?*
- ii. Whether each city/town/urban local body is covered under the said Plan and individual Action Plan has timelines with budgetary provisions?*
- iii. What time has been fixed to completely comply with the provisions of the Rules, 2016?*
- iv. What are the main constraints of non-compliance of Rules, 2016?"*

It was directed that action plans be finalized latest by 31.10.2018 and executed latest by 31.12.2019 which was to be overseen by the Principal Secretaries of Urban/Rural Development Departments of States/UTs. States were directed to standardize technical specifications instead of leaving the same to individual local bodies. Further directions are for installing CCTV cameras at dump sites, installing GPS system in garbage collection vans, adopting best practices including control rooms where citizens can upload photos of garbage to be looked into by responsible officers, conducting performance audit with reference to source

⁶ O.A. No. 606/2018

segregation, door to door collection, public sweeping, waste processing, grievance redressal mechanism and monitoring. This Tribunal also constituted Regional/Apex Committees for a limited period.

Sewage Management:

10. Apart from the issue of SWM, the Tribunal also dealt with the issue of sewage management in pursuance of order of the Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*⁷ requiring this Tribunal to monitor directions for proper treatment of sewage to prevent untreated sewage and other effluents being discharged in water bodies. On 28.08.2019, it was directed that 100% sewage treatment must be ensured by all local bodies. Vide further order dated 06.12.2019 in O.A. No. 673/2018⁸, the Tribunal directed that for failure to commence in-situ remediation, compensation will be payable at the rate of Rs. 5 lakh per month per drain after 31.03.2020 and for failure to commence setting up of STPs after 31.03.2020 compensation is to be paid at the rate of Rs. 5 lakh per month per STP. For failure to complete the project, compensation has to be paid at the rate of Rs. 10 lakh per STP per month after 31.03.2021. Relevant part of the order is quoted below:

“47. (i) 100% treatment of sewage may be ensured as directed by this Tribunal vide order dated 28.08.2019 in O.A. No. 593/2017 by 31.03.2020 atleast to the extent of in-situ remediation and before the said date, commencement of setting up of STPs and the work of connecting all the drains and other sources of generation of sewage to the STPs must be ensured. If this is not done, the local bodies and the concerned departments of the States/UTs will be liable to pay compensation as already directed vide order dated 22.08.2019 in the case of river Ganga i.e. Rs. 5 lakhs per month per drain, for default in in-

⁷ (2017) 5 SCC 326

⁸ News item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB"

situ remediation and Rs. 5 lakhs per STP for default in commencement of setting up of the STP.

ii. Timeline for completing all steps of action plans including completion of setting up STPs and their commissioning till 31.03.2021 in terms of order dated 08.04.2019 in the present case will remain as already directed. In default, compensation will be liable to be paid at the scale laid down in the order of this Tribunal dated 22.08.2019 in the case of river Ganga i.e. **Rs. 10 lakhs per month per STP.”**

Other issues:

11. Apart from solid waste management and sewage management, the Tribunal is seized of other significant environmental issues in separate proceedings including 351 polluted river stretches⁹, 122 non-attainment cities¹⁰, 100 polluted industrial clusters¹¹, illegal sand mining¹², reuse of treated water¹³, restoration of water bodies¹⁴, compliance of Plastic Waste, Bio-medical waste etc.¹⁵, carrying capacity study¹⁶, remediation of legacy waste sites¹⁷, preparation of District Environment Plans¹⁸, Hazardous Waste Management Rules¹⁹, depletion of ground water in over-exploited, critical and semi-critical areas²⁰. However, for today's consideration, as directed vide order dated 07.01.2020, primary monitoring is focused at:

(i) Solid waste management including legacy waste.

(ii) Sewage management and 351 polluted river stretches.

(iii) Air quality management in 122 non-attainment cities.

⁹ Vide order dated 06.12.2019, O.A. No. 673/2018

¹⁰ Vide order dated 20.11.2019, O.A. No. 681/2018

¹¹ Vide order dated 14.11.2019, O.A. No. 1038/2018

¹² Vide order dated 26.07.2019, O. A. No. 360/2015

¹³ Vide order dated 10.05.2019, O.A. No. 148/2016

¹⁴ Vide order dated 10.05.2019, O.A. No. 325/2015

¹⁵ Vide order dated 24.04.2019, O.A. No. 606/2018 – Karnataka

¹⁶ Vide order dated 11.02.2019, Appeal No. 122/2018

¹⁷ Vide order dated 17.07.2019, O.A. No. 519/2019 with O.A. No. 386/2019

¹⁸ Vide order dated 25.07.2019, O.A. No. 710/2017

¹⁹ Vide order dated 26.08.2019, O.A. No. 804/2017

²⁰ Vide order dated 10.10.2019, O.A. No. 176/2015

Order dated 16.01.2019:

12. Vide order dated 16.01.2019, after noticing that statutory timelines under Rule 22 had expired for various steps and failure of the statutory authorities was punishable criminal offence under the provisions of the EP Act as well as under the provisions of the National Green Tribunal Act, 2010 (NGT Act), this Tribunal required presence of Chief Secretaries of all States/UTs. The timelines in the said Rule are as follows:

Sl. No.	Activity	Time limit from the date of notification of rules
(1)	(2)	(3)
1.	Identification of suitable sites for setting up solid waste processing facilities.	1 year
2.	Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more.	1 year
3.	Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities.	2 years
4.	Enforcing waste generators to practice segregation of bio degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source.	2 years
5.	Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.	2 years
6.	ensure separate storage, collection and transportation of construction and demolition wastes.	2 years
7.	setting up solid waste processing facilities by all Local Bodies having 100000 or more population.	2 years
8.	Setting up solid waste processing facilities by Local Bodies and census towns below 100000 population.	3 years
9.	setting up common or stand alone sanitary landfills by or for all Local Bodies having 0.5	3 years

	<i>million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules.</i>	
10.	<i>setting up common or regional sanitary landfills by 3 years all Local Bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules.</i>	3 years
11.	<i>bio-remediation or capping of old and abandoned dump sites.</i>	5 years

13. It was noted that apart from failure of solid waste management, there was also failure of liquid waste management. Such failure had resulted in 351 identified polluted river stretches, 102 (now 122) non-attainment cities in terms of air quality, 100 polluted industrial clusters and other serious environmental consequences, threatening life and health of citizens, water and air quality and the climate. The Chief Secretaries of all States/UTs were required to acquaint themselves with specific issues mentioned in the said order and coordinate with all the concerned authorities in their respective States/UTs and appear before this Tribunal with their respective status reports. Other directions included constitution of special task force in each district for awareness by involving educational, religious and social organizations, including local Eco-clubs.

14. The issues specified were as follows:

- “a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.*
- b. Status of functioning of Committees constituted by this order.*
- c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in “The Hindu” authored by Shri Jacob Koshy Titled “More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).*

- d. *Status of functioning of Committees constituted in 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" dated 08.10.2018 (O.A. No. 681/2018).*
- e. *Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018.*
- f. *Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.*
- g. *Total amount collected from erring industries on the basis of 'Polluter Pays' principle, 'Precautionary principle' and details of utilization of funds collected.*
- h. *Status of the identification and development of Model Cities and Towns in the State in the first phase which can be replicated later for other cities and towns of the State."*

15. Accordingly, the Chief Secretaries of the States/UTs appeared and interacted with this Tribunal. The Tribunal noted unsatisfactory state of affairs on the subject of environmental governance in the country and serious non-compliance of statutory mandate, need to ensure that statutory regulators performed their duty and are manned by credible persons. Failure in this regard had potential for public health and environment and sustainable development goals. It was noted that SOP had been prepared for clearance of legacy waste and circulated to the SPCBs/PCCs which had been successfully implemented at some places like Indore.

16. After interaction with the Chief Secretaries on several dates, further directions were issued which were by and large on same pattern as non-compliance was found by all the States/UTs. It will be suffice to refer to the observations and directions issued vide order dated

18.07.2019 in respect of State of J&K, which was the last State in the series of interactions:

Observations:

“36. Needless to say that improvement in environment is not only inalienable duty of the State, but is also necessary for sustainable development which is essential for the health and well-being of citizens as well as for intergenerational equity. These principles require that all human activities should be conducted in such a way that the rights of future generations to access clean air and potable water are not taken away. **At the cost of repetition, it may be mentioned that water is being polluted because of discharge of untreated sewage and effluents. Air pollution is result of failure to manage solid waste and to prevent other causes leading to air pollution.** There are also other issues like deterioration in groundwater level, damage to forests and wild life, unscientific and uncontrolled sand mining etc. Unsatisfactory implementation of law is clear from the fact that in spite of severe damage, there is no report of any convictions being recorded against the polluters, nor adequate compensation has been recovered for damage caused to the environment. Steps for community involvement are not adequate. There is reluctance even to declare some major cities as fully compliant with the environment norms. **The authorities have not been able to evolve simplified and standard procedure for preparing project reports and giving of contracts. There is no satisfactory plan for reuse of the treated water or use of treated sewage or waste and for segregation and collection of solid waste, for managing the legacy waste or other wastes, etc.**

37. Since we have found huge gap in steps taken and steps required to be taken to remedy the unsatisfactory state of environment, we had an interaction with the Chief Secretary about the way forward. The gap in the mandate of law on the one hand and actual compliance with law on the other has manifested itself in the form of polluted water, air and land. Its actual measurement in terms of monetary value or the loss on account of adverse impact on public health and environment or otherwise in terms of number of deaths or diseases does not appear to have been duly and exhaustively undertaken by the official machinery so far for the country or for any particular area. The private reports mention diseases by pollution in the state of J&K, as already noted in the para 33 above. There are also various studies reporting about number of deaths and diseases in India by pollution.²¹ Death by pollution may be comparable to an offence of homicide and any disease on that account may be likewise comparable to attempt to murder or grievous hurt. Polluter is, thus,

²¹<https://www.healtheffects.org/publication/gbd-air-pollution-india>

To the effect that 3283 Indians died per day due to outdoor air pollution in India in 2015, making the potential number of deaths due to outdoor air pollution in India in 2015 to 11.98 lakh.

liable to be dealt with in the same manner as a person committing any other heinous crime as per law of the land. Mere fact that such polluter creates wealth or employment does not make the offence less serious. The statutory framework prohibits polluting activity and provides for penal consequences. Further, the 'Polluter Pays' principle requires compensation to be recovered to meet the cost of remedying the adverse impact of pollution. Governance of such laws can be held to be satisfactory if the magnitude of punishment of law violators corresponds to the extent of violation of law and the compensation recovered is adequate to meet the cost of damage. There is enough evidence of pollution but no data is shown of corresponding convictions or recovery of adequate compensation for restoration of environment. This calls for authentic study of the extent of damage to the environment and to the public health so that policy makers and law enforcers can bridge the gap.

38. In case extent of convictions for the environment related offences do not correspond to the extent of crime, paradigm shift in policies and strategies for implementation of law may need to be considered. Similarly, the mechanism for recovery of compensation may need to be revised on that pattern. Such review of policy cannot be left to the local bodies or the Pollution Control Boards but has to be at highest level in the State and further review at the national level. As noted in some of the studies, the ranking of the country in compliance of environmental norms needs to be brought to respectable higher position which may be possible only if there is change in policies and strategies for implementation of necessary norms at every level in right direction. **The scale of compensation needs to be suitably revised so that the same is deterrent and adequate to meet the cost of reversing the pollution.**

39. Authentic data is required to be compiled which is necessary for proper policy making. The Rules provide for such data to be collected at the state level as well as at the national level. If such data is not furnished timely from ground level with all the requisite details, the policy making remains deficient. **Since none of the States is fully compliant with the mandate of statutory waste management rules under various headings, as already noted, remedial measures are necessary.** We consider it necessary to observe that at least some major cities/towns/villages be first developed as model and thereafter successful experiment replicated in remaining cities/towns/villages.

40. Though environment is priceless and no amount of compensation may be sufficient for real restoration of environment to its pristine glory, the 'Polluter Pays' principle requires cost of restoration to be recovered which should be deterrent and also include Net Present Value (NPV) for environmental services forgone forever. **Though such compensation is to be primarily recovered from polluters, where authorities fail to implement law and recover compensation on account of collusion or inaction, such authorities can also be made accountable and required to pay compensation.** Strong

central mechanism of auditing the compliance of environmental laws by the States and the Union Territories (UTs) is necessary. We are also of the view that to encourage enforcement of environmental laws, cognizance of performance or otherwise need to be taken by authorities allocating funds. Incentives can be given to encourage compliance and those deficient in compliance may be required to comply as a condition for getting grants or part of such grants. Such a policy may be a step in the right direction for achieving sustainable development goals. We take note of discussion on the subject in the minutes of National Development Council held on 01.10.1990.²² Therein a formula called “Gadgil – Mukerjee” formula is referred to envisaging grants to meet environmental problems. We may add that while such grants may be necessary, there may be a condition requiring measurable and demonstrable improvement in time bound manner as a condition for the grant. Accordingly, vide order dated 24.04.2019 a copy of this order has been sent to Niti Aayog, Finance Commission and MoEF&CC to consider the observations, particularly in this para.

41. One major hurdle in compliance of the Rules is lack of institutional training mechanism. Scheme of Rules and strategies for implementation, including technology to be used, best practices to be employed need to be identified. Resource persons, target group of persons to be trained, location at which training is to be undertaken need to be worked out.

42. **It is also necessary to have an Environment Plan for the country as well as for the States which may identify and publish gaps in compliance of environmental law and indicate action plan to remedy the same.** Compliance of environmental norms also requires carrying capacity study not only of eco-sensitive areas but also areas where violation of environmental laws has clearly surfaced out based on scientific data published by CPCB such as non-attainment cities in terms of air quality, critically polluted industrial clusters on account of air/water pollution, polluted river stretches etc. Drastic remedial measures may be necessary to deal with the same which should not merely be responsive but proactive by way of planning population density, vehicle numbers, nature and quality of vehicles, nature and quality of activity to be allowed. **Absence of such measures may render it difficult to meaningfully implement the accepted norms of ‘Sustainable Development’ or ‘Intergenerational Equity’.** Such planning is part of ‘Precautionary’ principle. ‘Polluter Pays’ principle can be meaningfully implemented only when assessment of damage is realistic and compensation recovered matches the extent of damage. As per census of India 2011, there are 475 places with 981 overgrowths (OGs) have been identified as Urban Agglomeration (UA). The number of total towns in India is 7,935 (Statutory Towns 4,041 + Census Towns 3,894). There are total 6,166 Urban Agglomeration/towns which constitutes the urban frame of the country. During FY 2017-2018, out of 35 SPCBs/PCCs only 16 SPCBs/ PCCs reported the status of Solid

²²http://planningcommission.gov.in/aboutus/committee/wrkgrp12/wg_state_finan0106.pdf

Waste Management Rules, 2016.²³ **In view of these statistics, emergent and stringent measures are required for compliance of environmental norms.**

43. We discussed with the Chief Secretary the above unsatisfactory situation of environment and about **need for having an effective monitoring cell directly attached to the office of the Chief Secretary** with experts in environment and related issues to assist the Chief Secretary.

44. The presence of Chief Secretary before this Tribunal was directed with an expectation that there will be realization of seriousness at the highest level which may percolate in the administration.”

Directions:

“45. In view of above, after discussion with the Chief Secretary, following further directions are issued:

- i. Apart from three towns said to have been notified as proposed models for compliance of Environmental norms, atleast three villages in every District of the State may be notified on the website of the State within two weeks from today which will be made fully compliant with environmental norms within the next six months. Remaining cities, towns and villages of the State may be made fully compliant in respect of environmental norms within one year.
- ii. A quarterly report be furnished by the Chief Secretary, every three months. First such report shall be furnished by October, 10, 2019.
- iii. The Chief Secretary may personally monitor the progress, atleast once in a month, with all the District Magistrates.
- iv. The District Magistrates may monitor the status of compliance of environmental norms, atleast once in two weeks.
- v. The District Magistrates or other Officers may be imparted requisite training.
- vi. Estimate of value of environmental degradation and cost of restoration be prepared and compensation be planned and recovered from polluters for environmental restoration and restitution on that basis.
- vii. Performance audit of functioning of all regulatory bodies may be got conducted and remedial measures be taken, within six months.
- viii. Introduction of a policy of giving ranking, based on performance on the subject of environment and giving of rewards or other incentives on that basis to individual areas, localities, institutions or individuals may be considered. This may also include encouraging students or

²³ Annual report of CPCB for the year 2017-18 accessible at: http://cpcb.nic.in/uploads/hwmd/MSW_AnnualReport_2017-18.pdf

other citizens significantly contributing to the cause of environment. The best practices may be evolved, if necessary, in the light of experiences on the subject. This may help in educating and involving public at large which may help in enhancing of environmental laws.

- ix. The Chief Secretary may remain present in person before the Tribunal with the status of compliance in respect of various issues mentioned in para 22 as well as any other issues discussed in the above order on 10.02.2020 at 2.p.m. It is made clear that Chief Secretary may not delegate the above function and the further requirement of appearance before this Tribunal to anyone else. However, it will be open to him to change the date, by advance intimation by e-mail at ngt.filing@gmail.com to adjust their convenience.

A copy of the compliance report furnished by the Chief Secretary be sent to CPCB as already directed vide order dated 24.04.2019 for the State of Karnataka (supra)."

17. It was further directed that compliance reports be furnished by the States/UTs to CPCB. Reference may also be made to some further orders on the subject being dated 08.04.2019²⁴, 22.04.2019²⁵, 23.04.2019²⁶, 24.04.2019²⁷, 11.02.2019²⁸, 08.03.2019²⁹, 02.11.2018³⁰, 10.05.2019³¹, 10.05.2019³², 17.07.2019³³,

²⁴ O.A. No. 673/2018, News item published in 'The Hindu' authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB" **(directing effective steps for remediation of the polluted river stretches.)**

²⁵ OA No. 606/2018 - Meghalaya **(directing training and capacity building at National and State Level)**

²⁶ O.A. No. 606/2018 - Tamil Nadu **(directing preparation of Annual Environment Plan giving status of compliance to environmental norms and gaps therein including assessment of damage to the environment in monetary terms)**

²⁷ O.A. No. 606/2018 - Karnataka **(directing monitoring of compliance of Plastic Waste, Bio-medical waste, Sewage Waste and air pollution)**

²⁸ Appeal No. 122/2018, *Anil Tharthare Vs. The Secretary, Env't. Dept. Govt. of Maharashtra & Ors.* Para 33 of the order wherein the Tribunal directed constitution of a five Members Expert Committee to carry out **carrying capacity study** of the area for relevant environment parameters and impact of such expansion on already congested and stressed areas.

²⁹ O.A. No. 568/2016, *Ajay Khera Vs. Container Corporation of India Limited & Ors.*, the Tribunal directed the Container Corporation of India (CONCOR) to phase out diesel vehicles, used for transportation by the Inland Container Depot (ICD) Tughlakabad, within six months.

³⁰ O.A. No. 400/2017, *Westend Green Farms Society Vs. Union of India & Ors.* Para 28 of the order wherein the Tribunal directed carrying capacity assessment to regulate activities violating environmental laws.

³¹ O.A. No. 148/2016, *Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors.* **(Reuse of treated water)**

³² O.A. No. 325/2015, *Lt. Col. Sarvadaman Singh Oberoi Vs. Union of India & Ors.* **(restoration of water bodies)**

³³ Original Application No. 519/2019 WITH Original Application No. 386/2019 **(remediation of legacy waste sites)**

22.07.2019³⁴, 25.07.2019³⁵, 26.07.2019³⁶, 26.08.2019³⁷,
 28.08.2019³⁸, 11.09.2019³⁹, 11.09.2019⁴⁰, 10.10.2019⁴¹,
 14.11.2019⁴², 19.11.2019⁴³, 20.11.2019⁴⁴, 06.12.2019⁴⁵ and
 18.12.2019⁴⁶.

18. The Registry was directed to forward quarterly reports received from the Chief Secretaries as and when received to the CPCB so that CPCB may prepare a gap analysis report and present the same to this Tribunal.

19. Accordingly, the CPCB filed following reports:

- “i. Report dated 09.09.2019 enclosing Annual Environment Plan for the country giving compliance of environment norms and gaps.*
- ii. Report dated 09.09.2019 annexing Preliminary Framework for Imposing Environmental Damage Compensation.*
- iii. Report dated 09.09.2019 on the subject of Methodology of Assessment of Environment Carrying Capacity.*
- iv. Gap Analysis report filed on 06.09.2019 on the subject of compliance of solid waste, plastic waste, bio-medical waste management, rejuvenation of identified polluted river stretches, polluted industrial clusters, non-attainment cities.*
- v. Report dated 24.07.2019 on Framework on national environmental training program.*
- vi. Status report dated 09.08.2019 on Information, Education & Communication (IEC) activities.”*

Order dated 12.09.2019:

³⁴ Execution Application No. 13/2019 (**Plastic Waste Management**)

³⁵ O.A. No. 710/2017 (**preparation of District Environment Plans**)

³⁶ O. A. No. 360/2015 (**Illegal sand mining**)

³⁷ O.A. No. 804/2017 (**Hazardous Waste Management Rules**)

³⁸ O.A. No. 593/2017 (**requirement of 100% treatment of sewage and effluents**)

³⁹ O.A. No. 148/2016 (**utilization of treated waste water**)

⁴⁰ O.A. No. 496/2016 (**ground water management, rain water harvesting**)

⁴¹ O.A. No. 176/2015 (**depletion of ground water in over-exploited, critical and semi-critical areas**)

⁴² O.A. No. 1038/2018 (**polluted industrial clusters**)

⁴³ O.A. No. 519/2019 (**legacy waste dump sites**)

⁴⁴ O.A. No. 681/2018 (**non-attainment cities in terms of air quality and also control of noise pollution**)

⁴⁵ O.A. No. 673/2018 (**351 polluted river stretches**)

⁴⁶ O.A. No. 200/2014 (**pollution of river Ganga**)

20. The Tribunal vide order dated 12.09.2019 considered the above and directed all the States/UTs to furnish information to the CPCB as follows:

“3. We have heard learned Counsel for the CPCB for future course of action and further directions required on the above subjects. He submitted that the above reports are incomplete for want of information from the States/UTs. It was elaborated during the course of hearing that information is required to be submitted in terms of following thematic areas viz.

- Compliance to Solid Waste Rules including Legacy Waste.
- Compliance to Bio-medical Waste Rules.
- Compliance to Construction & Demolition Waste.
- Compliance to Hazardous Waste Rules.
- Compliance to E-waste Rules.
- 351 Polluter Stretches in the country.
- 122 Non-attainment cities.
- 100 industrial clusters.
- Status of STPs and re-use of treated water.
- Status of CETPs/ETPs including performance.
- Ground water extraction/contamination and re-charge.
- Air pollution including noise pollution.
- Illegal sand mining.
- Rejuvenation of water bodies.

4. The information with regard to above thematic areas needs to be submitted to CPCB by the Chief Secretaries of all the States and Union Territories in terms of following:

- Current status
- Desirable level of compliance in terms of statutes.
- Gap between current status and desired levels.
- Proposal of attending the gap with time lines.
- Name and designation of designated officer for ensuring compliance to provisions under statute.

5. CPCB is permitted to file revised updated reports on the subject after collecting information from concerned States/UTs by 15.11.2019.”

Order dated 07.01.2020:

21. The status report dated 27.12.2019 with reference to the above thematic areas was considered on 07.01.2020 and it was observed:

“12. The reports give information about States who have given some information but the nature and extent of information which was required has not been furnished. Available information with regard to

sewage generation and treatment shows huge gap. Grading made by the CPCB into 'good', 'average', 'poor' and 'no information' is not based on any qualitative analysis but extent of information furnished.

Instead, what is least expected is information on:

- (i) solid waste management, including remediation of legacy waste in terms of earlier orders of this Tribunal,
- (ii) sewage treatment and restoration of 351 polluted river stretches and
- (iii) air quality management in 102 (122) non-attainment cities.

With respect to serial no. (i), the information is required with regard to the quantity of MSW generated, segregated and treated; gaps in the waste processing in terms of generation and treatment and enforcement of statutory timelines and orders of this Tribunal for bridging the gap; number of sites, and quantity of legacy waste therein and timelines for its remediation.

With respect to serial no. (ii), quantity of sewage generated and treated in the State, gap in the sewage treatment and timelines to bridge the gap including strategy for use of treated water for secondary purpose. Further, with regard to restoration of 351 polluted river stretches, the States need to furnish information about the compliance of directions including in-situ and ex-situ remediation by way of phyto-remediation/artificial wetlands, bio-diversity parks or any other appropriate measure to supplement load reduction on recipient river systems.

With respect to serial no. (iii), the Chief Secretaries need to monitor and compile information on the subject of execution of action plans for containment of air pollution in terms of orders of this Tribunal and furnish the quantifiable progress/achievement to the CPCB.

13. In view of above, CPCB needs to redesign formats and secure relevant quantifiable information from the Chief Secretaries under different heads so that the Chief Secretaries are able to respond to the Tribunal on their appearance as per schedule of appearance already notified. Chairman and Member Secretary, CPCB may remain present on the dates of appearance of Chief Secretaries with relevant data.

14. The regime of compensation in terms of earlier directions will be considered after interaction with the Chief Secretaries."

IV. RECENT ORDERS OF THE HON'BLE SUPREME COURT DATED 25.11.2019 AND 13.01.2020 HAVING BEARING ON THE MATTER (M.C. Mehta vs. Union of India, W.P. No. 13029/1985):

22. The Hon'ble Supreme Court vide order dated 25.11.2019⁴⁷ while dealing with the pollution in Delhi and NCR held:

⁴⁷ Writ Petition(s)(Civil) No(s). 13029/1985, M.C. Mehta Vs. Union of India & Ors.

“4. We see Yamuna river virtually turned into a sullage. We take judicial notice of this situation. Similar is the position with Ganges. As it proceeds, industrial effluents are being poured in rivers. **Sewage is also being directly put in rivers contributing to the river water pollution.** We direct the Pollution Control Boards of the various States as well as the Central Pollution Control Board and various Governments to place before us the data and material with respect to various rivers in the concerned States, and what steps they are taking to curb the pollution in such rivers and to management as to industrial effluents, **sewage, garbage, waste and air pollution, including the water management.** We club the pending case of water management with this matter.

10. As we have noted that from last several years, the position of air pollution is worsening in spite of various orders passed by this Court. The reports and the scientific data indicating that large section of people are suffering from the dreaded diseases due to such air pollution such as Cancer, Asthma and various other diseases. Life span is adversely affected. **Time has come that the various States recognise right to life is important right. Human life and health have been put in danger.** In such scenario, why they should not be required to pay compensation to such persons who are being affected by inadequate arrangement to check the **air pollution, non-lifting of garbage, waste which add ultimately to the pollution.**

11. In this case we find that Delhi is lacking the capacity to the extent of 45% to even clean the garbage/waste which is being generated. Similar is the situation in various other places. We take note of the situation which is alarming and time has come to remind the State machineries as to their duties as all of us are meant to serve the people of this great country. Our Constitution has envisaged certain Directive Principles as they are more important rights at the discretion of the Government. The Courts are not to interfere in that, but dereliction cannot be to the extent that the very right to life is endangered by the inaction.

13. Not only the basic Fundamental Rights are being ignored with respect to air and water, **problem of governance are being projected, which cannot come into the way of the basic Fundamental Rights which a human enjoys,** much less to talk of the Fundamental Duties and Directive Principles contained in the State policy which have already found statutory expression in the form of Municipal laws, Prevention of Air Pollution and Water Acts and various schemes framed by the Central Government and State Governments, but we see neither the air quality has improved nor the water quality in several States, not to talk of Delhi only. We have called for the report from Delhi Government where the reports indicate that the contaminated water is being supplied and also from Bureau of Indian Standards to submit report in this regard.

15. At the same time, as we find that in spite of various orders passed by this Court, we are not able to improve the situation of air quality which we can see at least in Delhi and NCR with certainty. **Time has come to require the State Governments to explain**

why they should not be asked to compensate the persons who are being affected by bad air quality. Obviously, the State is run by the administration, why liability should not be imposed for such a tort on the concerned machinery also of the various States which are failing to discharge their basic duties. This Court in *Municipal Council, Ratlam Vs. Vardhichand & Ors.*, reported in (1980) 4 SCC 162 has held they have to take proper and positive action in this direction. **It is their bounden duty to provide civic amenities, and also to see that self-created bankruptcy does not come in the discharge of the statutory obligation which are necessary for existence of human life.** We have seen during the course of the arguments that one State is passing the burden upon the Centre and then it is stated on behalf of the Central Government that they have framed scheme and it for the State Governments to implement it. We expect not only the 'policy making' but also its 'implementation'. Let the States of Punjab, Haryana, Uttar Pradesh and the Government of NCT of Delhi respond, due to the air pollution, why the concerned Government and its concerned machinery, from top to bottom, should not be asked to compensate the citizens of Delhi and adjoining areas for various diseases which are being caused and sufferings and troubles which are being faced and the report indicates the life span is being shortened. Let show cause notice be issued to the various State Governments, and to the Chief Secretaries, to submit reply within six weeks. Let the matter be listed for consideration on 17.01.2020. The Chief Secretaries to the States of Punjab, Haryana, Uttar Pradesh and Government of NCT of Delhi be personally present on that date."

23. Again, in the above matter, the Hon'ble Supreme Court vide order dated 13.01.2020 observed:

"56 (F). With respect to waste burning **compliance of Solid Waste Management Rules, 2016 is necessary.** The waste segregation and management is required, what are the existing facilities and deficit requirements have to be met by the Government of NCT of Delhi, Haryana, Uttar Pradesh, Rajasthan and Punjab.

57. (xviii). Let the Government of NCT of Delhi work out the details with respect to 45% deficit capacity to lift the garbage and waste as there is only 55% capacity available with respect to garbage and waste generated in Delhi. **Let it work out at a comprehensive plan within three months to have full (100%) capacity to deal with garbage and wastes** and place it before this Court, including the implements, tools, manpower and the expenditure required in that connection.

(xxi). We direct the various State Governments through **Chief Secretaries to inform this Court about the measures taken by them with respect to pouring of sewage** and untreated industrial effluents in various rivers and the plan prepared by them and arrangement of **funds made by them for the purpose of**

sewage treatment plants and existing facilities and requirements be pointed out within eight weeks.

(xxii). Let the Government of NCT of Delhi and Governments of Punjab, Haryana and UP show cause why they should not be saddled with the compensation for failure of their machinery and the concerned authorities in taking appropriate steps to prevent stubble burning and other pollution being caused."

V. 25TH REPORT DATED 12.02.2019 OF THE STANDING COMMITTEE ON URBAN DEVELOPMENT, 16TH LOK SABHA ON THE ISSUE OF SOLID WASTE MANAGEMENT INCLUDING HAZARDOUS WASTE, MEDICAL WASTE AND E-WASTE:

24. The Standing Committee on Urban Development, 16th Lok Sabha in its 25th Report dated 12.02.2019 considered the issue of solid waste management including hazardous waste, medical waste and e-waste and observed:

*"It is estimated that about **65 million tonnes of waste is generated annually** in the country out of which about 62 million tonnes is Municipal Solid Waste (MSW) which include organic waste, recyclables like paper, plastic, wood, glass etc. About 45-50% of this MSW is biodegradable/wet/organic waste, 20-25 % is recyclable waste & about 30-35% is inert/debris.*

*1.2 Only about 75-80% of the municipal waste gets collected and out of this only **22- 28% is processed and treated and remaining is deposited indiscriminately at dump yards.** It is projected that by the year 2031, the MSW generation shall increase to 165 million tonnes and to 436 million tonnes by 2050. **Eliminating, dumping and minimizing releases of hazardous chemicals by paying special attention to air quality and municipal and other waste management and reducing waste generation through prevention, reduction, recycling and reuse globally have been one of the Sustainable Development Goals (SDGs) that have been adopted by UN General Assembly in September, 2015.***

*1.3 It has been estimated that the Urban Local Bodies (ULBs) spend about 60-70% of total expenditure on street sweeping, 20-30% on transportation and less than 5% on municipal disposal of waste, which shows that hardly any attention is given to scientific disposal of waste. The waste collection efficiency in India ranges between 70% and 90% in major Metro cities, whereas in several smaller cities it is below 50%. However, if the current 62 million tones annual generation of MSW continues to be dumped without treatment; it will need 3.40 lakh cubic meter of landfill space every day. Considering the projected waste generation of 165 million tonnes by 2031, **the requirement of land for setting up landfill for 20 years (considering 10 meter high waste pile)***

could be as high as 66 thousand hectares (1240 hectare per year) of precious land, which our country cannot afford to waste. Currently, of the estimated 62 million tonnes of MSW generated annually by 377 million people in urban areas, more than 80% is disposed of indiscriminately at dump yards in an unhygienic manner by the municipal authorities leading to problems of health and environmental degradation.

1.4 As per NITI Aayog, presently, out of the total MSW generated, only 29.51% is subjected to treatment which, however, is poised to improve with the Swachh Bharat Mission (Urban) scheme of Government of India being in full swing.”

VI. FURTHER CONSIDERATION OF THE MATTER IN TODAY’S HEARING:

25. Accordingly, we have considered the matter further after interaction with the Chief Secretaries and officers representing CPCB. Even though all the thematic areas of the environment are significant, interaction has been limited to few selected themes, other themes being left to be considered separately on different scheduled hearings.
26. The fact remains that there is huge gap in generation and treatment of solid and liquid waste. **As per CPCB report 2016 (06.12.2016) as against 61948 MLD sewage generated in urban areas in India, the treatment capacity is 23277 MLD. The deficit in capacity is 62%.** There is no data of sewage generation in rural areas. **As per CPCB estimate⁴⁸, about 65 million tonnes of waste is generated annually in the country out of which about 62 million tonnes is Municipal Solid Waste (MSW). Only about 75-80% of the municipal waste gets collected and out of this only 22- 28% is processed and treated and remaining is deposited indiscriminately at dump yards. It is projected that by the year 2031, the MSW generation shall increase to 165 million tonnes and to 436 million tonnes by 2050. There are more than 4000**

⁴⁸ http://164.100.47.193/Isscommittee/Urban%20Development/16_Urban_Development_25.pdf

dump sites as per CPCB data⁴⁹ which need to be remediated to avoid harmful impact on environment and public health.

27. All the States/UTs were directed by this Tribunal to commence remediation of legacy waste sites by 01.11.2019⁵⁰. The Tribunal observed:

“28. 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 health⁵¹.”

*“30. Needless to say that potential hazard of dumpsites on public health and environment is more or less on the same pattern and earliest such dumpsites are cleared, sooner it is better for public health. **Such dumpsites are undoubted source of air pollution resulting in respiratory and other diseases. Most vulnerable are the infants and the senior citizens.** The right to breathe fresh air being part of right to life, delay in remedying the situation is not desirable. The plea of capping is being put forward on the ground of need for urgent remedial action, ignoring that doing so will perpetuate the adverse consequences of retaining non-biodegradable and other polluting components in the garbage eventually causing continuous damage to the soil and the ground water. Biological solutions have to be preferred over engineering solutions on the subject. However action has to be taken fast. Delay which has taken place so far is on account of inaction of the concerned authorities for which there is no justification.*

*31. It will also be appropriate to note that the scheme of the SWM Rules is to prevent collection of waste and instead, to ensure its segregation, treatment and disposal at the earliest and as far as possible at the source itself. **If it is***

⁴⁹ Order dated 18.10.2019 in O.A. No. 606/2018 para 6

⁵⁰ Order dated 17.07.2019 O.A. No. 519/2019 Para 28

⁵¹ (a) *What a Waste 2.0, Global Snapshot of Solid Waste Management to 2050*, World Bank Group, ISBN (paper): 978-1-4648-1329-0, 2018 International Bank for Reconstruction and Development / The World Bank, <http://datatopics.worldbank.org/what-a-waste/>. The report states- When waste is burned, the resulting toxins and particulate matter in the air can cause respiratory and neurological diseases, among others (Thompson 2014). Piles of waste produce toxic liquid runoff called leachate, which can drain into rivers, groundwater, and soil. Organic waste entering waterways reduces the amount of oxygen available and promotes the growth of harmful organisms (Bhada-Tata and Hoornweg 2016). Marine pollution is also increasing as a result of mismanaged solid waste on land, poor disposal practices by sea vessels, and runoff from sewage and polluted streams.

(b) <https://www.epw.in/engage/article/institutional-framework-implementing-solid-wastemanagement-india-macro-analysis> Several studies have been published that link asthma, heart attack, and emphysema to burning garbage. Human faecal matter is also frequently found in municipal waste—this, along with unmanaged decomposed garbage, attracts other rodents, that further lead to a spread of diseases such as dengue and malaria. Leachate from rotten garbage contains heavy metals and toxic liquid; with such emissions ending up either absorbed into the soil or flowing into water bodies today (Awasthi 2013), the entire food chain can be affected when this contaminated water is utilised for agriculture, human consumption and animal consumption.

not done, the waste continues to be accumulated which becomes a challenge for the environment and public health. In this regard particular reference may be made to Rule 15 (zi). The authorities need to evolve a holistic strategy for integrated waste management in the municipal planning which may result in 'zero waste' going to the landfill in terms of the said rules⁵².

35. A copy of this order be sent to CPCB, all the Chief Secretaries, the MoEF&CC and MoHUA."

28. The issue of solid and liquid waste needs to be taken seriously. We have already mentioned the available statistics on the subject. It is a matter of serious concern that legacy waste remediation has not even commenced at most of the sites even though statutory rules contemplate outer limit for completion of such remediation by 07.04.2021. Current processing of the waste generated and collected is also not taking place on regular basis. For any person travelling by train, hot spots of scattered garbage and overflowing sewage are common sights. Satisfactory sewage management also remains far cry. This unsatisfactory state of affairs must be remedied at the earliest and in a time bound manner by initiative at the highest level. Accountability needs to be fixed and consequences for failure clearly provided and enforced.

29. We may now note States specific scenario for UP, Punjab and UT Chandigarh as depicted in the earlier orders of this Tribunal when the Chief Secretaries appeared and as emerging from the data now made available.

I. Data noted in the earlier orders of this Tribunal:

⁵² Reference may also be made to- Suggestive / Indicative "The National Action Plan for Municipal Solid Waste Management", Central Pollution Control Board, https://cpcb.nic.in/uploads/MSW/Action_plan.pdf.

A. STATE OF PUNJAB:

RULES	DATA			
Solid Waste Management	- No of Towns and Local Bodies: 167 - Waste generation: 4632.27 TDP - Collection: 4498.57 TDP - Treatmnt: 696 TDP - Landfill : 3801 TDP - Existing dumps : 167			
Plastic waste management	Waste generation : 54066 TPA No. of Plastic Units: 142 Un Registered Units: 246			
Biomedical waste management	No of Hospitals : 7137 Waste Generation : 15203 Kg/D CBMWTF: 4			
Polluted river stretches	River Ghaggar - PI River Sutlej - PII River Kali Been - PIV River Beas - P V (Action Plans are accepted by CPCB)			
Air quality action plans	1.Derabasi 2. Gobindgarh 3. Jalandhar 4. Khanna 5. Ludhiana 6. Naya Nangal 7. Dera baba/ Pathankot 8. Patiala 9. Amritsar (Action Plans not prepared)			
Industrially polluted clusters	Ludhiana and Mani Gobindgarh			
ETPs CETPs and STPs	Sl. No.	ETP	CETPs	STPs
	Total	1666	4	641
	Complying	1580	3	570
	Non-Comply	86	1	71
	Under construction	-	4	120

B. STATE OF UTTAR PRADESH:

RULES	DATA
Solid Waste Management	Number of towns to be covered: 653 Local Bodies: 653 Waste Generation: 15500 TPD Collected: 12000TPD Treated : 3115 TPD Landfilling : No. of Dumpsites :
Plastic waste management	Waste Generation : 206733.4505 TPA
Biomedical waste management	No of Hospitals : 12876+ Authorizations granted : 7644 Waste Generation : 43554 Treatment : 43554 Common Bio-medical waste Treatment Facilities : 17

	Number of captive facilities: 13
Polluted river stretches	P(I)- 4 Hindon, Kalindi, Varuna, Yamuna P(II)- P(III)- 1 Gomti P(IV)- 2 Ganga, Ramganga P(V)- 5 Betwa, Ghaghara, Rapti, Sai, Saryu Total -12
Air quality action plans	Agra, Allahabad, Anpara, Bareilly, Firozabad, Gajrula, Ghaziabad, Jhansi, Kanpur, Khurja, Lucknow, Moradabad, Noida, Raebareli, Varanasi.
Industrially clusters	Agra, Ghaziabad, Kanpur, Noida, Aligarh, Bulandshar – Khurza, Firozabad, Gajrula, Mathura, Meerut, Moradabad, Singrauli and Varanasi.
ETPs CETPs and STPs	ETPs No. of industries which require ETP : No. of industries having functional ETP: No. of industries complying : STPs No. of STPs : No. of STPs complying : No. of under construction/proposed STPs : CETPs No CETP in the State

C. UT CHANDIGARH:

RULES	DATA
Solid Waste Management	- No. of Local Bodies: 01 - No. of city: 01 - Waste generation: 500 TPD - Waste collection: 463 TPD - Waste treated: 142.87 TPD - Land filling: 319.68 TPD - House to house collection: 100% - Segregation: 80% - Composting: 01 - Bio-gas Plant: 02 - RDF Plant: 01
Plastic waste management	- Waste generation : 12775 TPA - Use of Plastic: Ban on use of carry bags. - No. of registered units: 126
Biomedical waste management	- No. of hospitals : 788 - No. of authorizations: 350 - Waste generation : 2503 Kg/D - Quantity of waste treated: 2503 Kg/D - CBMWTF: 01 - No. of captive facilities: 03
Polluted river stretches	- Sewage disposal in river Ghaggar. - Action Plan prepared.
Air quality in Non-attainment cities	- Chandigarh. - Action plan prepared.
Industrially polluted clusters	No cluster identified.
ETPs CETPs and STPs	1. Compliance Status of ETPs (Jan., 2019): - No. of industries which require ETP: 245 - No. of industries having functional ETP: 245

	• No. of Industries complying: 241 • No. of industries non-complying: 04
	2. Compliance Status of CETPs (Jan., 2019): • No. of CETPs: 0 • No. of under construction/proposed CETPs: 0
	3. Compliance Status of STPs (Jan., 2019): • No. of STPs: 60 • No. of STPs complying: 57 • No. of STPs non-complying: 03 • No. of under construction /proposed STPs: 03 • Targeted time period: Not specified



II. Data now made available during the hearing by the CPCB by way of presentation based on the data furnished by the concerned States/UT alongwith its observations:

A. STATE OF PUNJAB:

(i) Solid waste management including legacy waste.

S.no	Item	Remarks
	Number of ULBs	167
	Overall waste management status	
1	Quantity of MSW generated in the state (TPD)	4634
2	Quantity of MSW collected in the state (TPD)	4575
3	Quantity of MSW segregated and transported in the state (TPD)	4483 (98%)
4	SOLID WASTE MANAGEMENT PLAN	Decentralized approach adopted for SWM. Composting proposed for wet waste processing. Channelization of recyclable waste to be done through MRF facility. Inert waste to be dumped in landfill

Legacy Waste		
1	Number of dumpsites	150
2	Quantity of Waste dumped at dumpsites	Not provided
3	Number of dumpsites cleared	Nil
4	Number of dumpsites in which biomining has commenced	8
5	Time frame for clearing all dumpsites	April 2021

(ii) Sewage management and 351 polluted river stretches.

SEWAGE GENERATION VS TREATMENT CAPACITY						
Sewage Generation	Treatment Capacity	Actual Treatment	Gap - Treatment (A-C)	Gap - Treatment Capacity (A-B)	Proposed Treatment Capacity	Timeline to meet the Gap
2478 MLD	1827 MLD	1355 MLD	1123 MLD	651 MLD	651 MLD (100 STPs)	05 Years (2024)
SEWERAGE NETWORK						
Existing Sewerage Length	Expected Network	Gap in Network (B-A)		Timelines to meet the Gap		
12039 Km	15434 Km	3395 Km (22 %)		05 Years (2024)		
COMPLIANCE STATUS OF STPS						
Operational STPs	Under Construction	STPs meeting the norms	New Proposed	Total STPs (A+B+D)		
98	35	66 (67 %)	100	233		
RE-USE OF TREATED SEWAGE						
Present Utilization		Proposed	Timelines			
280 MLD (20.99 %)/1355 (MLD)		1450 MLD (58.51 %) / 2478 MLD)	05 Years (2024)			

Priority Class	I	II	III	IV	V	Grand Total
No. of PRS	2	-		1	1	4

RIVER NAME	RIVER STRETCH	BOD RANGE/ MAX VALUE (mg/l) (2016-2017 Data)	PRIORITY
GHAGGAR	SARDULGARH TO MUBARAKPUR	9.0-380	I
SUTLEJ	RUPNAGAR TO HARIKA BRIDGE	3.8-108	I
KALI BEIN	SULTANPUR LODHI TO C/F BEAS	9.0	IV
BEAS	ALONG MUKERIAN	3.8	V

(iii) Air quality management in 122 non-attainment cities.

- Number of Non Attainment cities (09) – (1) Dera Bassi (2) Gobindgarh (3) Jalandhar (4) Khanna (5) Ludhiana (6) Naya Nangal (7) Dera Baba/Pathankot (8) Patiala (9) Amritsar
- AQMC formed and all 09 plans approved by CPCB for implementation, CPCB Directions dated April 16, 2019
- City plans target all major sources specific to city (Soil & Road Dust, Vehicles, Domestic Fuel, MSW Burning, Construction Material and Industries), with short (within six months), mid (within two year) and long - term (> two year) actions and responsible agencies.
- Micro level planning for each action needed.
- Strengthening of Monitoring Network –
 - Existing: Manual 22, CAAQMS 06
 - Required: Manual 06, CAAQMS 12 (Timeframe – November 20, 2020)
- GRAP – Preparation & Implementation of GRAP to be ensured
- Development of Public Grievance Redressal portal (PGRP) - Required to be developed
- Focused timely actions to tackle seasonal issues – stubble burning.

B. STATE OF UTTAR PRADESH:**(i) Solid waste management including legacy waste.**

	Item	Remarks
	Overall waste management status	
	NUMBER OF ULBs	652
1	Quantity of MSW generated in the state (TPD)	17377
2	Quantity of MSW collected in the state (TPD)	17329.4
3	Quantity of MSW segregated and transported in the state (TPD)	Not provided
4	SOLID WASTE MANAGEMENT PLAN ✓ 97.2% of Door to Door collection of MSW is being practiced. ✓ 12 MSW processing facilities (waste to compost) functional with cumulative treatment capacity of 4615 TPD. ✓ To fill the gap for waste processing, 5 firms have been issued letter of award for setting up waste to energy plants. Decentralized approach in all ULBs has been approved for creating composting of wet waste and MRF of dry waste.	

Legacy Waste		
1	Number of dumpsites	609
2	Quantity of Waste dumped at dumpsites	Not provided
3	Number of dumpsites cleared	1
4	Number of dumpsites in which biomining has commenced	Legacy waste remediation started at Gawri, Meerut and in Agra. RFP floated for 10 towns to remediate approx 39 Lacs ton of legacy waste. 1 Lac ton legacy waste remediated at Meerut site
5.	Time frame for clearing all dumpsites	Three years

Observations:

- Information regarding quantity of legacy waste to be provided.

(ii) Sewage management and 351 polluted river stretches.

SEWAGE GENERATION VS TREATMENT CAPACITY						
Sewage Generation	Treatment Capacity	Actual Treatment	Gap - Treatment (A-C)	Gap - Treatment Capacity (A-B)	Proposed Treatment Capacity	Timeline to meet the Gap
5500 MLD	3298.84 MLD	2248.28 MLD	3251.72 MLD	2201 MLD	1281.33 MLD (56 STPs)	By 2021
SEWERAGE NETWORK						
Existing Sewerage Length	Expected Network	Gap in Network (B-A)	Timelines to meet the Gap			
No Information						
COMPLIANCE STATUS OF STPS						
Operational STPs	STP not in Operation	STPs meeting the norms	New Proposed	Total STPs (A+B+D)		
96	8	72 (75 %)	56	160		
RE-USE OF TREATED SEWAGE						
Present Utilization	Proposed	Timelines				

410 MLD (18.23 %) / 2248.28 (MLD)	No Further Plan	-				

Priority Class	I	II	III	IV	V	Grand Total
No. of PRS	4	-	1	2	5	12
RIVER NAME	RIVER STRETCH		BOD RANGE/ MAX VALUE (mg/l)		PRIORITY	
HINDON	SAHARANPUR TO GHAZIABAD		48-120		I	
KALINADI	MUZAFFAR NAGARTO GULAOTHI TOWN		8 - 78		I	
VARUNA	RAMESHWAR TO C/F GANGA, VARANASI		4.5-45.2		I	
YAMUNA	ASGARPUR TO ETAWAH SHAHPUR TO ALLAHABAD (BALUA GHAT)		12.0-55		I	
GOMTI	SITAPUR TO VARANASI		3.1-18.0		III	
GANGA	KANNAUJ TO VARANASI		3.5-8.8		IV	
RAMGANGA	MURADABAD TO KANNAUJ		6.6		IV	
BETWA	HAMIRPUR TO WAGPURA		3.5-4.2		V	
GHAGHARA	BARHALGANJ TO DEORIA		4.0-4.5		V	
RAPTI	DOMINGARH TO RAJGHAT		4.7-5.9		V	
SAI	UNNAO TO JAUNPUR		4.0-4.5		V	
SARYU	AYODHYA TO ELAFATGANJ		4.3		V	

(iii) Air quality management in 122 non-attainment cities.

- Number of Non Attainment cities (15) – (1) Agra (2) Prayagraj (3) Anpara (4) Bareilly (5) Firozabad (6) Gajraula (7) Ghaziabad (8) Jhansi (9) Kanpur (10) Khurja (11) Lucknow (12) Moradabad (13) Noida (14) Raebareli (15) Varanasi
- AQMC formed; all 15 plans approved and directions dated March 14, 2019 issued by CPCB for implementation

- City plans target all major city specific sources (Soil & Road Dust, Vehicles, Domestic Fuel, MSW Burning, Construction Material and Industries) with short (upto six months), mid and long - term actions (upto one year) and responsible agencies.
- Micro level planning for each action needed.
- Quarterly progress – Information awaited on ground actions initiated – CPCB directions & reminders (March 14, June 26, August 06 & October 31, 2019)
- Source Apportionment studies – Initiated in Agra, Ghaziabad and Kanpur
- Strengthening of Monitoring Network –
 - Existing: Manual 58, CAAQMS 17
 - Additional Required as per CPCB criteria : Manual 04, CAAQMS 31
 - Action partially initiated (Agra, Prayagraj Firozabad, Kanpur, Lucknow & Varanasi) (Timeframe – November 20, 2020)
- GRAP – Prepared for Ghaziabad, Noida, Lucknow, Kanpur, Agra, Moradabad & Varanasi; Implementation of GRAP to be ensured
- Development of Public Grievance Redressal portal (PGRP) - Required to be developed

C. UT CHANDIGARH:

(i) Solid waste management including legacy waste.

	Item	Remarks
	NUMBER OF ULBs	1
A	Overall waste management status	
1	Quantity of MSW generated in the state (TPD)	470
2	Quantity of MSW collected in the state (TPD)	458
3	Quantity of MSW segregated and transported in the state (TPD)	366 (80%)
4	SOLID WASTE MANAGEMENT PLAN The Municipal Corporation Chandigarh has facilitated door to door collection system in all 26 wards, 1415 no. of waste pickers have been incorporated for collection and segregation of MSW. 39 Sahaj Safai Kendras have been constructed as secondary storage facility of MSW. MSW is transported to garbage processing plants (RDF plant capacity: 500 TPD and Compost plant capacity: 300 TPD) setup by M/s JP ASSOCIATES where MSW is processed to producer RDF and compost.	



Legacy Waste		
Number of dumpsites	1	The total area of existing dumping ground is 45 acres in which 25 acres land has been reclaimed by way of developing capping, covering, closing in 17 acres of land and construction of sanitary landfill site in 8 acres.
Quantity of Waste dumped at dumpsites	1.32 lakh tons	
Number of dumpsites in which biomining has commenced	Tendering done	

Biodegradable Waste (wet waste) (47%) Required Capacity – 220 TPD	
Composting	Biomethanation
Existing capacity : 300 TPD (Adequate).	Existing capacity : 7 TPD (Adequate).

Non- Biodegradable (Dry waste) (53%) – 249 TPD	
Material Recovery Facility (Required capacity) : 249TPD	Recycling Required Capacity (28%) : 131
Information required	Information required

Observations:

- Information regarding existing/planned MRF/ Recycling facility to be provided

(ii) Sewage management and 351 polluted river stretches.

SEWAGE GENERATION VS TREATMENT CAPACITY					
Sewage Generation	Treatment Capacity	Actual Treatment	Gap in Treatment	Proposed Treatment Capacity	Timeline to meet the Gap
--	231 MLD	164 MLD	--	Upgradation - existing plant for tertiary Treatment	--
SEWERAGE NETWORK					
Existing Sewerage Length	Expected Network	Gap in Network (B-A)	Timelines to meet the Gap		
No Information					
COMPLIANCE STATUS OF STPS					

Operational STPs	STP not in Operation	STPs meeting the norms	New Proposed	Total STPs (A+B+D)	
06	NIL	03 (50%)	NIL	06	
RE-USE OF TREATED SEWAGE					
Present Utilization	Proposed	Timelines			
40.86 MLD (25 %) / 164 (MLD)	No Further Plan	-			

- Information not provided as per the format circulated by CPCB for the purpose of NGT review meeting
- No action is required in the matter of OA No. 673 of 2018. Presently, action plans prepared in compliance to Hon'ble NGT orders passed in O. A. No 138/2016 and 139/2016 are reviewed by Executing Committee under the Chairmanship of Hon'ble Justice Pritam Pal.
- Timelines for installation of new STP is April 2022 against the timeline of 31.03.2021
- No measures proposed for maintaining E-Flows/FPZ Protection
- Lakes Identified: 01 (Sukhna Lake)
- Chandigarh UT claims no action is required for restoration of lake, but as per water quality data for the year 2018, Sukhna Lake requires restoration

(iii) Air quality management in 122 non-attainment cities.

- Information awaited on ground actions initiated – CPCB Directions & reminders (February 12, June 26, August 06 & October 31, 2019).
- Source Apportionment studies: Source Apportionment studies under proposal stage – to be initiated.
- Strengthening of Monitoring Network.
- Existing: Manual 05, CAAQMS 1
- Required: Manual 03, CAAQMS 04 (Timeframe – November 20, 2020).
- GRAP - Draft action Plan for GRAP prepared, under process of approval - Preparation & Implementation of GRAP to be ensured.
- Development of Public Grievance Redressal portal (PGRP): Required to be developed.

ANALYSIS:**Solid Waste Management:**

30. It is self-evident from the above statistics that there remains a huge gap in terms of generation and treatment of solid waste which is endangering environment, adversely affecting public health and posing serious threat to life. There is hardly any significant improvement in comparison to the status apprised earlier. No firm commitment to remedy the gap consistent with the statutory Rules has been put forth, as expected in terms of directions of the Hon'ble Supreme Court and this Tribunal.

Likewise, remediation of legacy dumps sites has not even been initiated as directed by this Tribunal and as expected under the Rules at most of the places. The timeline of three years proposed for remediation in State of UP is against the mandate of law in terms of statutory provisions of Solid Waste Management Rules, 2016. The said timeline needs to be revised and legacy waste remediation needs to be commenced at the earliest so as to complete the same as per the statutory timeline of 07.04.2021. The State of Punjab has indicated timelines for remediation of legacy waste as April 2021 but to achieve the same, tangible steps are not shown to have begun which is necessary. If immediate steps are not initiated, it is difficult to believe that the target of completing the remediation on or before 07.04.2021 as per Rules will be achieved. With regard to UT Chandigarh, the action for its remediation has reportedly commenced. We expect that adherence to the timelines in the Rules

is maintained wherein 07.04.2021 is the date of completion rather than initiation of work for remediation.

31. As regards sewage management, there is huge gap in generation and treatment capacity which needs to be remedied in terms of directions already issued by this Tribunal. Longer timelines proposed need to be revised so as to be consistent with the directions of this Tribunal which are already in force. Untreated waste water and raw sewage is being continuously discharged in water bodies. There seems to be no synergy between work of laying of sewerage networks and setting up of STPs. Neither there is any interim plan to reduce pollution load on recipient river systems by way of phyto-remediation/bio-remediation of any other alternative low capital intensive natural remediation processes nor have the authorities successfully tapped the sewage containing storm water drain so as to channelize the untreated sewage to central STP as completion work of sewerage network has not even commenced. As already directed, atleast phytoremediation/bio-remediation or other such remediation must commence at or nearest the source of generation as a supplement to setting up of STPs as an interim measure to reduce the load of pollution on recipient water bodies before 31.03.2020. Setting up of STPs must also commence before the said date so as to complete the same by 31.03.2021. In this regard, compensation regime has already been laid down which has to be strictly followed. In short, the States may take earlier steps to adhere to the following timelines:

- 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.

32. The Chief Secretaries must ensure adverse entries in the service records of erring officers in respect of liquid waste management atleast from 01.04.2020.

Likewise, remediation work of legacy dump sites must commence at the earliest and adverse entries in ACRs of concerned officers if the remediation does not commence by 31.03.2020 which may be ensured by the Chief Secretaries.

To save time, standard specifications and service providers must be notified by the Chief Secretaries on the websites of the States within one month from today. The Chief Secretaries may take such opinion as may be necessary for the purpose.

Compliance reports may be filed quarterly and first such report may be filed by 31.03.2020 with a copy to the CPCB. CPCB may furnish gap analysis report.

33. With regard to air quality management in non-attainment cities, execution of action plans has to be duly ensured as per laid down timelines by making adequate budgetary provision in accordance with the orders of this Tribunal by clearly defined monitoring and enforcement strategies and fixing responsibilities for failures on the

officers. Absence of due execution of action plans is worsening the situation on account of resultant pollution. The execution of action plan needs to be supervised by the Chief Secretaries of States/UTs.

34. Similarly with regard to restoration of 351 polluted river stretches, the execution of action plans to ameliorate Priority (I) and Priority (II) is not shown to have commenced in right earnest and holistic manner. Considering that implementation requires inter-sectoral consideration and there is a need for a robust institutional mechanism to implement it, this needs to be overseen by the Chief Secretaries.

35. The Committees constituted by this Tribunal vide order dated 16.01.2019 to oversee the compliance of Solid Waste Management Rules, 2016 and also certain other issues entrusted to the said Committees from time to time have furnished reports which needs to be first looked into by the Chief Secretaries for further action and action taken report needs to be filed. In respect of State of UP, 72 reports are said to have been received from the Committee headed by Justice D.P. Singh, former Judge of Allahabad High Court. The said reports may be forwarded to the Chief Secretary, UP and the new Committee for further action and filing of action taken report.

Similarly, in respect of State of Punjab, five reports are said to have been received after 16.01.2019, the Registry may take same course of action as in the case of UP.

VII. DIRECTIONS:

36. We accordingly 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, 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 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.
- 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 28⁵³ 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. 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

⁵³ 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.

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.

- 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 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 31 above will result in liability to pay compensation as already noted above.
- 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.

The Chief Secretaries of UP, Punjab and UT Chandigarh may remain present in person for further review tentatively on 24.08.2020.

A copy of this order be sent to Chief Secretaries of UP, Punjab and UT Chandigarh, CPCB and Chairman of Committee constituted by this Tribunal in States of UP, Punjab and UT Chandigarh by e-mail. CPCB may put all Local Bodies and other concerned Departments of all the States in the country to notice for compliance.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 10, 2020
Original Application No. 606/2018
DV



Item No.04

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.05/2023/EZ

In the Matter of:

K. S. Upadhyay

A3, Brindaban Gardens,
Sonari
Jamshedpur - 831001

.... Applicant(s)

Versus

1. Jharkhand Pollution Control Board,

Through the Member Secretary,
H.E.C., Dhurwa,
Ranchi – 834004
(Jharkhand)

2. Deputy Commissioner, East Singhbhum,

Office of Deputy Commissioner,
Sakchi Jamshedpur - 831011

3. Tata Steel Utilities and Infrastructure Services Ltd.

(Formerly known as Jamshedpur Utilities & Services Co. Ltd. – JUSCO),

Through its Chairman,
Sakchi Boulevard Road,
Northern Town, Bistupur,
Jamshedpur – 831 001,
Jharkhand

4. Central Pollution Control Board (CPCB),

Through its Regional Directorate,
1582 Rajdanga Main Road,
South end Conclave,
5th and 6th Floor,
Kolkata - 700107

.... Respondent(s)

Date of hearing: 05.04.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : Mr. Sanjay Upadhyay, Advocate a/w
Ms. Gitanjali Sanyal, Advocate and
Mr. Kazi S. Thupden, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Ashok Prasad, Advocate for R-1 (in Virtual Mode),
Ms. Aishwarya Rajyashree, Advocate for R-2,
Mr. Dipanjan Ghosh, Advocate for R-4 (in Virtual Mode)

ORDER

1. Heard learned Counsel present for the parties and perused the documents on record.
2. The Applicant in the Original Application is seeking a direction to the Respondents to stop the ongoing burning of wastes of landfill site in question and further to direct the respondents to lay down the remediation plan.
3. The allegation in the Original Application is that there is a huge landfill dumping site situate close to the Rivers Subarnarekha and Kharkai in the area of Sonari in Jamshedpur. This landfill site has been set up in violation of Schedule (1)(A)(vii) of the Solid Waste Management Rules, 2016 for the reason that this landfill site is less than 200 meters from habitation and less than 100 meters from the confluence point of two Rivers Subarnarekha and Kharkai.
4. It is further alleged that the landfill site is on fire which is causing immense smoke and stench in the area where the Applicant resides.
5. Photographs by way of evidence have been filed from pages 17 to 22 which clearly show raging fire at the landfill site.
6. At the time of admission, the Tribunal directed the Respondent No.2, Deputy Commissioner, East Singhbhum, to visit the site in question and submit its para-wise report/reply to each of the allegations made in the Original Application.
7. Affidavit dated 15.02.2023 has been filed on behalf of the Respondent No.1, Jharkhand State Pollution Control Board. It is stated that during inspection conducted on 09.01.2023 by the Regional Officer, Jamshedpur, it was observed that municipal solid waste was being disposed of near Damuhani, Sonari, Jamshedpur, in an unscientific manner and the Regional Officer has apprised the

Special Officer, Jamshedpur Notified Area Committee and the Mango Municipal Corporation, East Singhbhum, authorities to put off the fire and take remedial measures for proper disposal of solid waste.

8. It is also stated that on 07.02.2023 the site in question was again visited by the Regional Officer, Jamshedpur, and it was found that smoke was still coming out of the dump site containing municipal solid waste.
9. In paragraph-10 of the affidavit, it is stated that the dump site in question is not a permanent landfill site.
10. The Respondent No.1, Jharkhand State Pollution Control Board, has filed further affidavit dated 13.03.2023. In paragraph-7 thereof, it is stated that no directions were given to the Jharkhand State Pollution Control Board to suggest any remedial measures. However, in the next paragraph-8 of the affidavit, it is stated that the Regional Officer, Jharkhand State Pollution Control Board, Regional Office, was directed to submit Inspection Report as well as suggest remedial measures/actions.
11. The Regional Officer, Jharkhand State Pollution Control Board along with Consulting Executing and Assistant Scientific Officer has inspected the waste dump site on 27.02.2023 and submitted the Inspection Report along with remedial suggestions and timelines. The remedial suggestions given by the Regional Officer in the affidavit read as under: -

<i>“Remedial Suggestions: -</i>	<i>Timeline</i>
1. Short Term <i>Keeping a strict check on fire hazard at the site.</i> <i>Covering of waste dump by Soil/LD Slag/ Compacted</i>	<i>With immediate effect.</i> <i>Within three months</i>

<i>C&D waste (Good alternative to conventional soil) up to 10 cm and then by a covering of HDPE lining of thickness 1.5 mm thickness to be made and with simultaneous effect clearing the waste dump in a phase wise manner to a scientifically designed Secured Land fill site in accordance with the Solid Waste management Rules, 2016.</i> <i>• A temporary garland drain with HDPE lining of thickness 1.5 mm to check any probable underground seepage needs to be constructed at the site.</i>	<i>Within one month</i>
2. Long Term <i>• Long Term Remediation plan needs details Scientific Research to assess the level of contamination of underground soil or water of the site. This needs to be carried out in collaboration with expert member from reputed organization or institutions. After detailed study and necessary remedial measures landscape development should be done.”</i>	<i>1 Year</i>

12. The Central Pollution Control Board in its affidavit dated 13.03.2023 has referred to the Solid Waste Management Rules, 2016. In

paragraph-10 of the affidavit, the CPCB has also referred to guidelines regarding Management of Solid Waste. Paragraph-10 of the affidavit, reads as under: -

“10. In response to the averment made in Para 12(K) under heading “Grounds” it is humbly stated that CPCB had issued the following guidelines regarding management of solid waste

Guideline	Published on	Available at
<i>Selection of Criteria for Waste Processing Technology</i>		https://cpcb.nic.in/uploads/MSW/SW_treatment_Technologies.pdf
<i>Guidelines for Management of Sanitary Waste</i>	<i>May 2018</i>	https://cpcb.nic.in/uploads/MSW/Final_Sanitary_Waste_Guidelines_15.05.2018.pdf
<i>Guidelines for Disposal of Legacy Waste (Old Dumpsite)</i>	<i>February 2019</i>	https://cpcb.nic.in/uploads/LegacyWaste/Biomining_guidelines_29.04.2019.pdf
<i>Amended Guidelines on the Provisions of Buffer Zone around Waste Processing and Disposal Facilities</i>	<i>March 2019</i>	https://cpcb.nic.in/uploads/MSW/bufferzone_guidelines.pdf
<i>Guidelines for Carcass Disposal</i>	<i>November 2020</i>	
<i>Guidelines for Disposal of Cigarette/Biddi Butts</i>	<i>November 2022</i>	

Furthermore, CPCB had issued directions under Section 5 of the Environment (Protection) Act, 1986 to all State Pollution Control Board/ Pollution Control Committees regarding biomining of legacy waste on January 27, 2021 and regarding management of fire at dumpsite on May 26, 2022.

Furthermore, relevant sections of the direction dated May 26, 2022 regard management of fire in dumpsites are reproduced as under:

- I. Provide updated information w.r.t Directions dated 27.1.2021 regarding biomining issued to all SPCBs/ PCCs. It is to be ensured that updated information w.r.t at least all Metro cities is provided in accordance with NGT Directions.*
- II. Direct State UDDs to conduct comprehensive risk assessment studies and accordingly prepare detailed On-site Emergency Plan for each dumpsite located in their jurisdiction addressing the following issues:*
 - a. The onsite emergency plan to cover potential risks/ emergencies due to fire, obnoxious/flammable emissions, odour, vector borne diseases, rodent, bird nuisance, seasonal affects i.e. summer/ winter/ monsoon (rainy season and all other potential risks at the dumpsites*
 - b. The onsite emergency plans to address the worst possible case scenarios preferably using appropriate risk assessment softwares covering any or all the potential emergency issues/ scenarios cited above*
 - c. The onsite emergency management plan to cover likely affected geographical area including population, flora & fauna in and around the dumpsites*
 - d. The on-site emergency plan to contain detailed remedial measures both hardware and software based for mitigating various emergency situation, which should finally be available with respective control rooms and on-site emergency notice boards*
- III. To direct District Collector or District Emergency Authority designation by the State Government for integrating such (dumpsites) On-site Emergency Plans with the existing Off-site District Disaster Management Plans in their respective Districts, prepared by the Local Authorities in compliance with*

Rules 14 of the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989

- IV. *The State/ UT Authorities to prepare the on-site & off-site (or update of off-site) emergency management plans preferably through an expert agency on the subject.*
- V. *The following interim measures to be implemented on priority till the time On-site/ Off-site Emergency Plans are prepared and implemented.*
 - a. ***Disposal of Waste:*** *Fresh waste not to be disposed at the dumpsite where bio-remediation is being undertaken. Organic waste from slaughter house, fish market etc., industrial waste not be disposed at the dumpsite. It is also to be further ensured that industrial waste/ E-waste/ lithium battery is not dumped at the site. Waste that is being unloaded at the site should be examined visually for potential fire sources, fire sources when located, should be neutralized with cover material immediately. Emergency tipping area to be provided to set aside from the immediate working area where incoming loads of material known to be on fire and suspected of being so can be deposited, inspected and dealt with adequate compacting of waste to be done to minimize formation of air or methane pockets which can lead to subsurface fire at site.*
 - b. ***Monitoring at dumpsites:*** *Methane Gas Detectors (on downwind site) to be installed at site so that area with high methane concentration can be identified and preventative actions be undertaken. Further temperature at windows to be monitored with non-contact infrared thermometer (as used for monitoring human body temperature under COVID circumstances) and records be maintained for any major deviations. The temperature is to be in the range of 35^o C to 59^o C. Treated leachate/ water to be sprayed on the waste when rise in temperature is observed at the bioremediation site. Suitable mechanism to be in place. Installation of CCTV*

cameras at the site and provision of fencing & frequent patrolling to be done for checking unauthorized entry at dumpsite.

- c. **Arrangement for Fire Extinguishing:** Arrangements for adequate storage of sand/ chemical fire extinguishing media such as foam or powder at site to be made to douse fire in case a fire incident is reported. Usage of water for dousing fire to be avoided. Isolation and allowing rapid natural burnout or smothering with soil to be done for dousing dumpsite fires. Dedicated fire tenders (preferably chemical extinguishing media) and adequate fire safety measures are to be deputed, specifically during summer season when dumpsite fire is more likely to take place. All mobile equipment or vehicles should be fitted with fire extinguisher and spark arrester.*
- d. **Health & Safety of Workers:** Fire protection measures and safety equipment to be provided to all workers at the site and checked before entry to the dumpsite. Workers to be trained for detection of fire and necessary action to be taken in case of fire. Periodic training of workers be conducted in Safe handling of Waste, PPE's, Health & Safety issues, etc.*
- e. **Mock drills & safety audits:** Periodic mock drills to be conducted to prevent fire accidents at dumpsites. Quarterly, Fire Safety and Hazardous Emissions Audits to be conducted.”*

13. The Respondent No.2, Deputy Commissioner, East Singhbhum, has filed affidavit dated 27.03.2023 stating that there was an ongoing fire in the piles of waste collected at the site located near the confluence of Subarnarekha and Kharkhai Rivers but the said fire has been since put off and measures have been taken to check that no further such incidents take place. It is also stated that two water tankers and two excavators have been deployed near the site. Security guards

have been doubled and against the earlier single security guard now there are two security guards deployed. It is further stated that supervisors have been deployed shiftwise to check unauthorized entry on the site and to see that no antisocial elements try to set the garbage on fire. Earlier, the fencing of the site was stopped as 'No Objection Certificate (NOC)' was not issued by Tata Steel Ltd. but thereafter, Tata Steel Ltd. has issued 'No Objection Certificate (NOC)' on 23.02.2023 and fencing will now be completed within three weeks.

Since we are in April, 2023, we expect fencing to have been completed.

14. It is stated that to remediate and remove the garbage as a permanent solution, a Detailed Project Report (DPR) was prepared by Consultant RCUES, Lucknow and Aditya Construction consortium and the DPR was technically approved by the Engineering Cell on 14.03.2022. However, due to GST rate revision and 'Schedule of Rate (SOR)' revision the DPR was revised and re-submitted for technical approval and the Urban Development and Housing Department, has given administrative approval on 10.01.2023 to execute the Bio-remediation of garbage stored at the site. It is also stated that the revised DPR and revised GST rate and SOR estimate has been approved on 17.02.2023 and tender has been floated on 20.02.2023 after taking necessary financial and administrative approval. Against the tender, three bidders have participated.
15. It is also stated that tender for selection of the concessionaire for Door to Door Collection, Transfer, Transportation, Developing and Operating an Integral Municipal Solid Waste Processing Facility and Engineered Sanitary Said Facility in Municipal area, as per Solid Waste Management Rules, 2016, for Adityapur Cluster (Adityapur,

Jamshedpur, Jugsalai, Mango & Kapali) in Jharkhand, on long term Design, Build, Operate and Transfer (DBOT) basis for Municipal Solid Waste with 20 years O & M was floated on 29.09.2021. Consortium of M/s Cube Bio-energy Pvt. Ltd., M/s Sudhakara Infratech Pvt. Ltd. and M/s MSGP Infratech Pvt. Ltd., were selected for the job.

16. It is stated that once the agreement is concluded, the concessionaire (Selected Agencies) will start the work, taking the necessary environment clearance for establishing the plant which might take 1.5 to 2 years. Land for the plant has already been allotted in Khairbani in Golmuri-cum-Jugsalai Block. It is also stated that with the help of Tata Steel Ltd., land measuring 14.95 hectare has been procured in Begunadih at Potka Block for Integrated Municipal Solid Waste Management Facility. Proposal has been submitted by Tata Steel Ltd. to the Ministry of Environment, Forests and Climate Change, seeking Terms of Reference (ToR) which was granted by the Ministry on 10.01.2020 and after resolving Public Grievances, Environmental Clearance has been granted on 13.02.2023 for the above site. It is further stated that the present landfill site is less than 200 meters from habitation and less than 100 meters from the confluence point of Rivers Subarnarekha and Kharkai i.e., in violation of the siting criteria under the Solid Waste Management Rules, 2016. The tender for removing the garbage lying at the site has been floated and it will be lifted from the site and after treatment it will be disposed of as per the Solid Waste Management Rules, 2016.

17. Mr. Sanjay Upadhyay, learned Counsel for the Applicant has submitted that there is no security guard at the site and fire continuous to rage.

We direct the Deputy Commissioner, East Singhbhum, to look into this aspect of the matter and ensure that his orders are duly complied with.

18. In this view of the matter, nothing further remains for adjudication in the present Original Application. We dispose of the Original Application with a direction to the Respondent No.2, Deputy Commissioner, East Singhbhum, Jharkhand, to ensure that the entire garbage and legacy waste is removed from the existing landfill site and the said land is completely restored and the garbage is duly treated and bio-mined strictly as per the Solid Waste Management Rules, 2016 and the guidelines issued by the Central Pollution Control Board already referred to hereinabove, by **31.12.2024**.
19. With the aforesaid directions, the Original Application No.05/2023 is disposed of.
20. Interlocutory Applications, if any stand disposed of accordingly.
21. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

.....
Prof. A. Senthil Vel, EM

April 05, 2023
Original Application No.05/2023/EZ
MN

Item No. 01 to 04

Court No. 1

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

Original Application No. 519/2016
WITH
Original Application No. 496/2018
(M.A. No. 1159/2018)
WITH
Original Application No. 196/2018
WITH
Original Application No. 197/2018

Hardeep Singh & Ors.

Applicant(s)

Versus

SDMC & Ors.

Respondent(s)

WITH

Akhand Bharat Morcha

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

(Reports filed in O.A No. 519/2016, in O.A. No. 496/2018, O.A. No. 196/2018 & O.A. No. 197/2018)

Date of hearing: 01.08.2019

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

Original Application No. 519/2016

For Applicant(s):

Mr. Manish Garg, Mr. Vijay, Advocates

For Respondent (s):

Ms. Krishna Kumar Singh, Advocate for MoEF&CC
Ms. Jyoti Mendiratta, Advocate for GNCTD
Ms. Sakshi Popli, Advocate for DPCC and NDMC with Dr. M.P George, Scientist, DPCC
Ms. Puja Kalra, Mr. Virendra Singh, Advocate
Mr. Nitin Jindal, SDM Dwarka

Mr. Shanker Chaudhary, Addl. DCP/PCR

Original Application No. 496/2018 and connected matters

For Applicant(s): Mr. Rahul Raj Malik, Advocate

For Respondent (s): Ms. Jyoti Mendiratta, Standing Counsel for GNCTD
Mr. Rajkumar, Advocate for CPCB
Ms. Sakshi Popli, Advocate for DPCC with Mr. Dinesh Jindal, Law Office, DPCC
Mr. Jasmeet Singh, IPS, DCP/East
Ms. Meghna Yadav, IPS, DCP/Shahdara
Mr. Parvinder Singh, IPS, Addl. DCP/South

ORDER

1. The issue for consideration is the failure of the statutory authorities in Delhi in controlling noise pollution as per statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000 (**Noise Rules**). The matter has been dealt with earlier by this Tribunal in the light of judgment of Delhi High Court in *Free Legal Aid Cell Vs. Government of NCT of Delhi*¹ and of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*.²
2. The grievance of the Applicants is that in spite of the above orders, unsatisfactory state of affairs continued. There was use of DJ systems, music systems, public address systems etc. during weddings or other functions and noise was being created at odd hours adversely affecting the health of the citizens. Reference was made to the order of this Tribunal dated 18.12.2012 in *Supreme Court Group Housing Vs. All India Panchayat Parishad*, Original Application No. 34/2011 directing establishment of call centers,

¹ AIR 2001 Delhi 455

² (2005) 5 SCC 733

drawing up a Standard Operating Procedure (SOP) regarding control of noise pollution and banning the use of generator sets of capacity of 5 KVA and above in the residential areas between 10 pm to 6 am, apart from other directions.

3. The steps taken pursuant to the earlier orders of this Tribunal, included the issuance of orders by the Commissioner of Police and DCP (Traffic) and SDM (East Delhi) and action plans were also placed before the Tribunal providing for setting up of call centers and drawing up detailed SOP for controlling noise pollution. The Ministry of Environment, Forest and Climate Change (**MoEF&CC**) amended the Noise Rules on 10.01.2010 prohibiting loud speakers, public address systems at night time except in closed premises. The DCP (Traffic) filed a status report indicating the number of challans etc.
4. In *Original Application No. 519 of 2016*, the Tribunal, vide order dated 27.09.2018, held that steps taken were hardly effective on the ground. The problem of noise pollution continued, directions in the order of the Hon'ble Supreme court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*³ had not been fully complied with. Accordingly, the Tribunal directed the Chief Secretary, Delhi, the Commissioner of Police, Delhi and the Delhi Pollution Control Committee (DPCC) to take steps for enforcing the directions of the Hon'ble Supreme Court and the Noise Rules with regard to use of loud speakers, control of vehicular noise and creation of awareness. The Commissioner of Police was to nominate a DCP and the Chief

³ Supra at 2 and (2005) 5 SCC 728

Secretary was to nominate a SDM who were to meet once in every week to take stock of the situation. They were to set up an exclusive website and dedicated helpline, apart from other steps. Report of compliance was to be filed.

5. In *Original Application. No. 496/2018, Original Application No. 196/2018 and Original Applicant No. 197/2018 also, similar grievance against non-enforcement of the Noise Rules in Delhi have been raised. Vide order dated 10.08.2018 in O.A No. 496/2018, joint inspection was directed to be conducted and a report was directed to be furnished. The report dated 31.10.2018 was considered on 14.02.2019 along with O.A No. 196/2018 and O.A No. 197/2018 and directions were issued to take remedial action. The Tribunal also directed the presence of DCP (East), DCP (Shahdara) and DCP (South) with action plans. O.A No. 496/ 2018, O.A No. 196/2018 and O.A No. 197/2018 were again taken up on 14.03.2019, along with O.A 519/2016 and after interaction with the officers who are to enforce the Noise Rules, further directions were issued to identify and map hotspots, install noise measuring device on the devices causing high noise level, conduct surveillance and monitoring and conduct awareness and coordination with RWAs. The Commissioner of Police, Delhi was also to monitor and furnish a report to this Tribunal. Taking note of the judgments of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*⁴, *Re: Ramlila**

⁴ (2005) 5 SCC 733

*Maidan Incident*⁵ and *Farhd K. Wadia vs. Union of India & Ors*⁶ and the rules on the subjects, the Tribunal further directed that requisite action be taken including setting up of a website and helpline, The concerned authorities were also required to acquire noise monitoring devices for effective monitoring.

6. In response to the above order, the Special Commissioner of Police, Operations, Delhi has furnished a report dated 15.04.2019 that process has been started for website, two Monitoring Committees- Apex Committee headed by Special CP (Traffic) and a Joint Committee headed by Additional CP, O&M, have been constituted. Further report dated 30.06.2019 has been filed by the DCP, Police Control Room stating that a website has been developed (*ngms.delhi.gov.in* developed by NICS), helplines (No. 155271, dedicated 24X7) have been developed and awareness programme is to be undertaken by the Local Bodies. Local Bodies have to acquire static and hand held devices and install them at hotspots. Minutes of meetings held by the Joint Committee on different days have been annexed. Reference has also been made to the orders of this Tribunal dated 08.03.2019 and 08.07.2019 in *Westend Green Farms Society vs. Union of India & Ors*.⁷, requiring steps to be taken for dealing with the noise pollution at hotels, banquets or other similar establishments having potential for causing noise in Delhi.

7. The DCP (East), DCP (Shahadra) and DCP (South) are present today and have individually furnished further action taken reports dated

⁵ (2012) 5 SCC 1

⁶ (2009) 2 SCC 442

⁷ O.A 400/2017

01.07.2019 which show some level of coordination with the RWAs, schools and penal action against individuals found violating the Noise Rules and the provisions of the Environment Protection Act, 1986. The reports also indicate that based on the details and specifications provided by the CPCB, request has been made to concerned authority to provide 25 (East District) & 20 (each for Shahdara and South District) sound measuring devices with a view to equip the staff. We have been also apprised that SDPOs and SHOs have been directed to keep vigil over any activities which are violative of the Noise Rules. ACPs and SHOs of Shahdara District have been directed to brief their division/beat staff to upload sound meter app in their mobile phones to enable them to check noise pollution in their respective areas.

8. In *Original Application No. 496/2018, 196/2018 and 197/2018*, we take note the action taken report and revised action plan filed by the Commissioner of Police, Delhi on 28.06.2019 which compiles the information already noted, in regard to meetings with the members of the Resident/Market Welfare Associations, educational institutions and imposition of challans. This report also states that a dedicated helpline no. 155271 has been made operation since 05.04.2019 for the purpose of receiving complaints related to noise pollution. Website in the similar lines is still under progress.

9. We find that though some steps have been taken, the enforcement of legal mandate under the Noise Pollution (Regulation and Control) Rules, 2000 and compliance of the directions of the Hon'ble Supreme Court and this Tribunal is still a far cry. Dr. M.P George, Scientist,

DPCC, present during the hearing, has stated that DPCC has only five monitoring stations which even according to him are not adequate. The DPCC must undertake gap analysis and set up sufficient number of monitoring stations and acquire such number of equipments as may be necessary. Instructions may be issued for requiring noise measurement equipment to be fitted to the equipment used with the potential of high noise level beyond permissible limits. There is need for instructions that noise levels be displayed at functions where high noise generating equipments are used. The DPCC may notify the specifications and methodology for acquiring such equipment in consultation with concerned technical experts.

10. We sought information about the working of the Monitoring Committees - the Joint Committee and the Apex Committee. There is nothing to show whether the Apex Committee has made any assessment of the monitoring mechanism on regular basis. It is not clear as to what activities such Committees are doing.
11. Under Rule 4(3) of the Noise Rules, the DPCC is required to collect, compile and publish technical and statistical data relating to noise pollution and to undertake measures for prevention, control and abatement of noise. This is not shown to have been done. As already noted, the DPCC does not even have sufficient equipment for collecting such data.
12. It may be noted that while dealing with the issue of noise pollution in *Original Application No. 681/2018 News Item Published in 'The Times*

of India' authored by Shri Vishwa Mohan "NCAP with Multiple Timelines to Clear Air in 102 cities To be Released Around August 15"⁸, this Tribunal, vide order dated 15.03.2019 directed the CPCB to prepare noise pollution map and categorize the cities with specified hotspots and prepare a remedial action plan⁹. It was also noted that there as need for training regulatory machinery, prepare action plan and monitoring mechanism, create awareness among the students and involve RWAs, social and religious institutions, prosecute violators, seize equipment, recover compensation, install noise measurements meter by those using high noise generating equipment with data loggers fitted thereon. The Chief Secretaries of all the states were to finalize their action plans and submit the same to the CPCB. CPCB was to lay down the scale of compensation to be recovered, including the conditions subject to which a seized equipment was to be released. The report filed by CPCB in O.A No. 681/2018 on the subject, *inter alia*, shows that 46 metropolitan in 17 States/UTs have been identified for carrying out noise mapping and identification of hotspots. It has laid down National Ambient Noise Monitoring Network in 7 cities for 70 locations. Action Plans have been received from 10 States/UTs, including Delhi. The Action Plan of Delhi was found to be non-compliant, with regard to training for use of measurement devices and to develop robust protocol for action against defaulters. With regard to integration of noise meters in public address systems, though the manufacturers associations have found it not to be economically feasible. States of Tripura and West

⁸ Order dated 15.03.2019

⁹ Para 12 in O.A 681/2018

Bengal¹⁰ have made policies for mandatory use of sound limiters in sound systems, for effective control of noise pollution.¹¹ Use of loud speakers is permitted only when amplifiers are attached to sound limiters. The CPCB has suggested that this policy may be practiced by all states to mitigate noise pollution. Scale of compensation is however yet to be finalized. The report may be placed on the website of the CPCB for a period of three months.

13. The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of 'Polluter Pays' principle. Though violation of the rules like the Noise Rules here, is a criminal offence punishable under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on 'Polluter Pays' principle can be invoked by the enforcement regulatory authority as per the guidelines which may be laid down by the CPCB. The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence. Meaningful enforcement of the Noise Rules requires availability of noise measurement equipment and in the course of exercising power of

¹⁰ Reference has been also made to proceedings of the Eastern Zone in O.A 158/2016 (EZ).

¹¹ See notification issued by the State of Tripura as follows: "In exercise of the power conferred by rule 5(3) of the Noise Pollution (Regulation and Control) Rules 2000 issued under the Environment (Protection) Act, 1986, the Governor of Tripura is pleased to issue this Notification for mandatory use of Sound Limiter(s) in all Sound System/ Public Address System for effective control of Noise pollution in the whole state with immediate effect as an addendum to rule 5. No sound system should be sold/ purchased/supplied/installed/let out/ used by any manufacturer/ dealer/shopkeeper/ any agency who lets out the PA system etc./ individual without having sound limiter in it. Further, all Licensing Authorities including Police Authorities, Municipal Corporation, Municipal Councils, Nagar Panchayats, Panchayat shall ensure that no audio system or public address system shall be let out/installed without being fitted with sound limiter in any government or non government function and this condition be included in all licenses issued by respective agencies.

enforcement under Rule 4(2), the authority can certainly lay down measures including the requirement of installing a noise meter on the noise creating equipment itself, such as loudspeakers, public address systems, DJs etc. under Rule 5, as has been done in West Bengal and Tripura and as recommended by the CPCB for all States/UTs.

14. In view of the above, we find it necessary to issue following directions:

(a) Further steps for meaningful enforcement of Noise Rules be taken by the DPCC and concerned authorities.

(b) Delhi Government may issue appropriate notification on the pattern of Notification issue by the Tripura Government for mandatory use of sound limiters in all sound systems¹². Delhi Government may address the observations of CPCB finding deficiency in its action plan with regard to training for use of measurement devices and developing robust protocol for action against defaulters¹³. A compliance report be filed.

(c) Sound measuring devices as sought by the DCP East, Shahdara and South Districts be made available by the DCP logistics¹⁴. Let the Special CP (Traffic), in-charge of the Apex Committee, file an affidavit about the methodology for assessing working of the Committees which are being overseen by the Apex Committee which may include compliance of directions issued to the DCP Logistics.

¹² See para 9 above

¹³ See para 12 above

¹⁴ See para 7 above

(d) DPCC may undertake gap analysis and set up sufficient number of monitoring stations and acquire requisite number of equipment¹⁵, compile and publish statistical data relating to noise pollution¹⁶, prescribe interim scale of compensation pending finalization of the same by CPCB¹⁷. Compliance report may be filed by DPCC.

The above reports may be filed on or before 31.10.2019 by email at judicial-ngt@gov.in.

Copies of this order be sent to the CPCB and NCT Delhi who are not represented by e-mail.

List for further consideration on 15.11.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 1, 2019

Original Application No. 519/2016 and connected matters
AK&DV

¹⁵ See para 9 & 12 above

¹⁶ See para 11 above

¹⁷ See para 13 above

Item No. 01 to 04

Court No. 1

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

Original Application No. 519/2016
WITH
Original Application No. 496/2018
(M.A. No. 1159/2018)
WITH
Original Application No. 196/2018
WITH
Original Application No. 197/2018

Hardeep Singh & Ors.

Applicant(s)

Versus

SDMC & Ors.

Respondent(s)

WITH

Akhand Bharat Morcha

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.11.2019

Date of uploading of order: 20.11.2019

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
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

ORDER

1. This order may be read in continuation of order dated 01.08.2019. The subject matter for consideration is the failure of the statutory authorities in Delhi in controlling noise pollution as per statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules). The matter has been dealt with earlier by this Tribunal in the light of judgment of Delhi High Court in *Free Legal Aid Cell Vs.*

*Government of NCT of Delhi*¹ and of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems.*²

2. The grievance of the Applicants is that in spite of the above orders, unsatisfactory state of affairs continues. By use of DJ systems, music systems, public address systems etc. during weddings or other functions, noise was being created at odd hours adversely affecting the health of the citizens. Reference is made to the order of this Tribunal dated 18.12.2012 in *Supreme Court Group Housing Vs. All India Panchayat Parishad*, Original Application No. 34/2011, directing establishment of call centers, drawing up of Standard Operating Procedure (SOP) regarding control of noise pollution and banning the use of generator sets of capacity of 5 KVA and above in the residential areas between 10 pm to 6 am, apart from other directions.
3. The steps taken pursuant to the earlier orders of this Tribunal, included the issuance of orders by the Commissioner of Police, DCP (Traffic) and SDM (East Delhi). Action plans were placed before the Tribunal for setting up of call centers and drawing up of detailed SOP for controlling noise pollution. The Ministry of Environment, Forest and Climate Change (MoEF&CC) amended the Noise Rules on 10.01.2010 prohibiting loud speakers, public address systems at night time except in closed premises. The DCP (Traffic) filed a status report indicating the number of challans etc.
4. In *Original Application No. 519 of 2016*, the Tribunal, vide order dated 27.09.2018, held that steps taken were hardly effective on the

¹ AIR 2001 Delhi 455

² (2005) 5 SCC 733

ground. The problem of noise pollution continued. Directions in the order of the Hon'ble Supreme court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*³ had not been fully complied with. Accordingly, the Tribunal directed the Chief Secretary, Delhi, the Commissioner of Police, Delhi and the Delhi Pollution Control Committee (DPCC) to take steps for enforcing the directions of the Hon'ble Supreme Court and the Noise Rules with regard to control of use of loud speakers, control of vehicular noise and creation of awareness. The Commissioner of Police was to nominate a DCP and the Chief Secretary was to nominate a SDM who were to meet once in every week to take stock of the situation. They were to set up an exclusive website and dedicated helpline, apart from other steps. Report of compliance was to be filed.

5. In *Original Application No. 496/2018*, *Original Application No. 196/2018* and *Original Applicant No. 197/2018* also, similar grievance against non-enforcement of the Noise Rules in Delhi have been raised. Vide order dated 10.08.2018 in O.A No. 496/2018, joint inspection was directed to be conducted and report was directed to be furnished. The report dated 31.10.2018 was considered on 14.02.2019 along with O.A No. 196/2018 and O.A No. 197/2018 and directions were issued to take remedial action. The Tribunal also directed the presence of DCP (East), DCP (Shahdara) and DCP (South) with action plans. O.A No. 496/ 2018, O.A No. 196/2018 and O.A No. 197/2018 were again taken up on 14.03.2019, along with O.A 519/2016 and after interaction with the officers who are to enforce the Noise Rules, further directions were issued to identify and map

³ Supra at 2 and (2005) 5 SCC 728

hotspots, install noise measuring device on the devices causing high noise level, conduct surveillance and monitoring and conduct awareness and coordination with RWAs. The Commissioner of Police, Delhi was also to monitor and furnish a report to this Tribunal.

6. Noise is an underestimated threat that can cause a number of short- and long-term health problems. It is increasingly becoming a potential hazard to health, physically and psychologically, and affects the general well-being of an individual. ⁴Excessive noise interferes with people's daily activities at school, at work, at home, and during leisure time. It can disturb sleep, cause cardiovascular and psychophysiological effects, reduce performance and provoke annoyance responses and changes in social behavior.⁵ Environmental noise exposure is responsible for a range of health effects, including increased risk of ischaemic heart disease as well as sleep disturbance, cognitive impairment among children, annoyance, stress-related mental health risks, and tinnitus.⁶ According to a 2007 WHO estimate, almost six per cent people in India suffer from hearing loss.⁷ WHO says that exposure to excessive noise is one of the causes for loss of hearing.⁸ Delhi was the second worst city for noise pollution, followed by Cairo, Mumbai, Istanbul and Beijing.⁹ Residents of Vienna, Austria have the least amount of hearing loss proportionate to their age whilst citizens of Delhi, India have the most.¹⁰

⁴Community Noise Pollution in Urban India: Need for Public Health Action,<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3968587/>

⁵ <http://www.euro.who.int/en/health-topics/environment-and-health/noise/noise>

⁶ <https://www.who.int/sustainable-development/transport/health-risks/noise/en/>

⁷https://www.who.int/healthinfo/statistics/bod_hearingloss.pdf,<https://www.downtoearth.org.in/news/health/not-just-air-level-of-noise-pollution-in-delhi-is-also-deadly-study-57273>

⁸ <https://www.who.int/en/news-room/fact-sheets/detail/deafness-and-hearing-loss>

⁹<https://www.weforum.org/agenda/2017/03/these-are-the-cities-with-the-worst-noise-pollution/>

¹⁰<https://www.mimi.io/en/blog/2017/3/8/worldwide-hearing-index-2017>,
<https://www.theguardian.com/cities/2018/mar/08/where-world-noisiest-city>

7. In *Re: Ramlila Maidan Incident*¹¹, it was observed:

“.....(301). Deprivation of sleep has tumultuous adverse effects. It causes a stir and disturbs the quiet and peace of an individual’s physical state. A natural process which is inherent in human being if disturbed obviously affects basic life. It is for this reason that if a person is deprived of sleep, the effect thereof, is treated to be torturous. To take away the right of natural rest is also therefore violation of a human right. It becomes a violation of a fundamental right when it is disturbed intentionally, unlawfully and for no justification. (318). Thus, it is evident that right of privacy and the right to sleep have always been treated to be a fundamental right like a right to breath, to eat, to drink, to blink, etc. (327). An individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. To disturb sleep, therefore, would amount to torture which is now accepted as a violation of human right. It would be similar to a third-degree method which at times is sought to be justified as a necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep.”

8. In the matter of *Farhd K. Wadia vs. Union of India & Ors.*¹², the Hon’ble Supreme Court observed:

*“24. This Court has also taken suo motu cognizance as regards noise pollution. It passed various orders from time to time in noise pollution (I), In re, Noise Pollution (II), In re, Noise Pollution (III), In re and Noise Pollution (IV), In re. A detailed judgment was rendered by a Division Bench of this Court in the said writ petition, which has since been reported in Noise Pollution (V), In re. Several guidelines had been issued therein by this Court in exercise of its jurisdiction under Articles 141 and 142 of the Constitution of India. Therein, the decision of the Calcutta High Court in *Om Birangana Religious Society v. State* has been taken note of. As regards loudspeakers and amplifiers, it was directed: “171. Loudspeakers and amplifiers or other equipment or gadgets which produce offending noise once detected as violating the law should be liable to be seized and confiscated by making provision in the law in that behalf.”*

9. It is thus clear that noise has auditory as well as non-auditory effects on sleep, hearing, communication, mental and physical health and may even lead to madness. It can disturb work, rest, sleep, communication and damage the hearing and cause psychological and

¹¹ (2012) 5 SCC 1

¹² (2009) 2 SCC 442

pathological reactions. Long noise exposure can cause irreversible loss of hearing. The Rules were framed in view of increasing ambient noise levels and noticing its adverse effects on the health. The Rules categorized areas as industrial, commercial, residential (for extent of noise level) and silence zones (to maintain silence near hospitals, educational institutions and courts). The Hon'ble Supreme Court laid down that noise pollution above the specified level affects right to life. Silence was required to be maintained between 10:00 pm to 06:00 am, except for emergencies. It was also directed that provision for seizure and confiscation of equipments used for creating noise should be made.

10. Taking note of the judgments of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*¹³, *Re: Ramlila Maidan Incident, supra*, and *Farhd K. Wadia vs. Union of India & Ors., supra*, and the rules on the subjects, the Tribunal further directed that requisite action be taken including setting up of a website and helpline, The concerned authorities were also required to acquire noise monitoring devices for effective monitoring.
11. The matter was thereafter reviewed on 01.08.2019 in the light of the earlier proceedings and report dated 15.04.2019 furnished by the Special Commissioner of Police (Operation), Delhi and further report dated 30.06.2019 filed by the DCP (Control Room).
12. The Tribunal heard the DCP (East), DCP (Shahadra) and DCP (South) who were present in person and furnished their action taken reports dated 01.07.2019 on the subject of coordination with the RWAs,

¹³ (2005) 5 SCC 733

Schools and enforcement action. The revised action plan filed by the Commissioner of Police on 28.06.2019 was also considered. The Tribunal recorded its dissatisfaction about the progress in terms of number of monitoring stations, procurement of necessary equipments and compliance of Rule 4(3) of the Rules on the subject of publishing of data with regard to noise pollution and abatement measures. The Tribunal also considered the report filed by the CPCB in O.A. No. 681/2018 with regard to the noise control measures throughout India to the effect that 46 metropolitan cities in 7 States and UTs were identified for carrying out noise mapping. 10 States / UTs had prepared action plans for setting up of National Ambient Noise Monitoring Network. The States of Tripura and West Bengal had made policies for mandatory use of sound systems which was required to be adopted by other States.

13. The Tribunal held that apart from taking other steps, compensation regime was required to be developed.

14. Accordingly following directions were issued:-

“(a) Further steps for meaningful enforcement of Noise Rules be taken by the DPCC and concerned authorities.

(b) Delhi Government may issue appropriate notification on the pattern of Notification issue by the Tripura Government for mandatory use of sound limiters in all sound systems¹⁴. Delhi Government may address the observations of CPCB finding deficiency in its action plan with regard to training for use of measurement devices and developing robust protocol for action against defaulters¹⁵. A compliance report be filed.

(c) Sound measuring devices as sought by the DCP East, Shahdara and South Districts be made

¹⁴ See para 9 above

¹⁵ See para 12 above

available by the DCP logistics¹⁶. Let the Special CP (Traffic), in-charge of the Apex Committee, file an affidavit about the methodology for assessing working of the Committees which are being overseen by the Apex Committee which may include compliance of directions issued to the DCP Logistics.

(d) DPCC may undertake gap analysis and set up sufficient number of monitoring stations and acquire requisite number of equipment¹⁷, compile and publish statistical data relating to noise pollution¹⁸, prescribe interim scale of compensation pending finalization of the same by CPCB¹⁹. Compliance report may be filed by DPCC.”

15. We have reviewed the progress on the subject in light of the action taken report filed by Special Commissioner of Police (Traffic) of Delhi filed on 31.10.2019, report dated 11.11.2019 filed by the DPCC and the report dated 14.11.2019 filed by the CPCB.

16. Compliance status may be noted as follows. With regard to direction Nos. (a) and (d), there is hardly any further progress even after three months in the report of Special Commissioner of Police (Traffic) Delhi. Requisite equipments have not been procured. Monitoring stations have not been set up in terms in observation of paragraph 9 of the earlier order. Only report is that tender process is going on. Locations have been identified. Technical specification are in the process of being finalized. Further progress is that a workshop was organized on 16.04.2019 (which is prior even to the earlier order). Another workshop was scheduled for 13.11.2019. Template has been prepared.

17. Likewise, progress by the DPCC can hardly be held to be adequate. We are sorry to record that DPCC has been wholly amiss in

¹⁶ See para 7 above

¹⁷ See para 9 & 12 above

¹⁸ See para 11 above

¹⁹ See para 13 above

performance of its duties. There is no satisfactory data about the action for violations though violations are rampant and widespread which is failure on the part of all the concerned statutory authorities entrusted with the enforcement of law. Dr. M.P. George representing DPCC has made a statement that the requisite equipment will be procured within 60 days and monitoring stations will be set up within the said time. In view of the long and continued failures in the past, it becomes necessary to direct that if this is not done even by 31.01.2020, Member Secretary, DPCC and Dr. M.P. George will not be entitled to draw salary till the direction of this Tribunal is complied with.

18. Special Commissioner of Police, has stated in para 4 of the status report that the requisite equipments will be required by March, 2020. Accordingly, the Special Commissioner of Police and Deputy Commissioner of Police (Provisioning and Logistics) will not be entitled to draw salary, if there is non compliance even upto 01.04.2020, till compliance.
19. With regard to (b), it is stated that Notification of Delhi Government is ready and will be issued within one week from today. We hope that the statements will be faithfully complied with, failing which appropriate coercive action may have to be taken. Let the Chief Secretary, Govt. of Delhi coordinate this matter.
20. Compliance of directions with regard to training for use of the devices, and robust protocol for action against defaulters may be ensured. As already directed vide order dated 27.09.2018, a dedicated telephone line with recording facility and a dedicated online grievance redressal portal for redressal of noise pollution related

grievances be developed by Delhi Police and public awareness in this regard created. A minimum grievance redressal timeframe be fixed and monitored by a supervisory authority. Action taken report may be accordingly filed before the next date.

21. We are informed that there are 2000 Eco-clubs in schools/ colleges. Awareness programme may be coordinated in such a way that at least one programme on the subject is held once a month in all such institutions. The present level of awareness activities by Department of Environment, Govt. of NCT Delhi, is inadequate in terms of quality and quantity. It needs to be properly planned and coordinated. Yearly action plan covering different thematic areas of environmental problems needs to be clearly identified, awareness activities planned and monitored. It would be appropriate if target groups are properly identified, logistic and personnel earmarked and action taken is monitored. This may be ensured jointly by the Department of Environment, DPCC and the Special Commissioner of Police in coordination with the Education Department of Delhi and a compliance report furnished by the DPCC before the next by e-mail at judicial-ngt@gov.in.

22. Report of CPCB is that compensation for violation by using equipments should be 10%-25% of cost of such equipment. Compensation suggested as follows:-

“

S. 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	Rs. 10,000	Seizure

	system (clause 5(1)-5(2), 6(i,ii,iii&iv)		
2.	Violation WRT Generator Sets Norms (standards attached as annexure – IV to VI)		
a)	DG sets more than 1000 KVA	Rs. 1,00,000/-	Sealing of DG sets
b)	DG sets 62.5 to 1000 KVA	Rs. 25,000/-	
c)	DG sets upto 62.5 KVA	Rs. 10,000/-	
3.	Violation of use of sound emitting construction equipment	Rs. 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)	Rs. 1000/-	

23. We are of the view that compensation for bursting of crackers at serial No. 4 needs to be suitably revised and needs to be different for different classes of defaulters and frequencies of default. Further, the CPCB has suggested that compensation should be 2-3 times for second and third violations accompanied by withdrawal of permission for installation/operation for their equipment.

24. The CPCB may also lay down stringent compensation for tampering with the sound limiters to ensure that the same is not restored to. Let compliance reports be filed by CPCB, Department of Environment, DPCC and Special Commissioner of Police, Delhi by 31.03.2020 by email at judicial-ngt@gov.in.

List again on 14.04.2020.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 20, 2019
Original Application No. 519/2016
and other connected matters



Item Nos. 02 to 05

Court No. 1

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

(By Video Conferencing)

Original Application No. 519/2016

(With reports dated 12.6.2020(CPCB), 13.07.2020 & 06.08.2020(DPCC),
15.7.2020 (Delhi Govt) and 11.05.2020 (Delhi Police),)

Hardeep Singh & Ors. Applicant(s)
Versus

SDMC & Ors. Respondent(s)
AND

Original Application No. 496/2018

Akhand Bharat Morcha Applicant(s)
Versus

Union of India & Ors. Respondent(s)
AND

Original Application No. 196/2018

Akhand Bharat Morcha Applicant(s)
Versus

Union of India & Ors. Respondent(s)
AND

Original Application No. 197/2018

Akhand Bharat Morcha Applicant(s)
Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 11.08.2020

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

Applicant(s); Mr. Manish Garg, Advocate
 Mr. Rahul Raj Mallik, Advocate

Respondent(s): Mr. Sumeet Pushkarna, Advocate for DPCC
 Mr. Raj Kumar, Advocate for CPCB
 Ms. Jyoti Mendiratta, Advocate for GNCTD

ORDER

1. This order is in continuation of order dated 20.11.2019. The subject matter for consideration is the failure of the statutory authorities in Delhi in controlling noise pollution as per statutory mandate of Noise Pollution (Regulation and Control) Rules, 2000 (Noise Rules). The matter has been dealt with earlier by this Tribunal in the light of judgment of Delhi High Court in *Free Legal Aid Cell v. Government of NCT of Delhi*¹ and of the Hon'ble Supreme Court in *In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems*.²

2. This Tribunal passed orders from time to time which were summed up in the last order dated 20.11.2019 as follows:-

¹ AIR 2001 Delhi 455

² (2005) 5 SCC 733

- “4. In Original Application No. 519 of 2016, the Tribunal, **vide order dated 27.09.2018, held that steps taken were hardly effective on the ground. The problem of noise pollution continued. Directions in the order of the Hon’ble Supreme court in In Re: Noise Pollution - Implementation of the Laws for restricting use of loud speakers and high volume producing sound systems³ had not been fully complied with. Accordingly, the Tribunal directed the Chief Secretary, Delhi, the Commissioner of Police, Delhi and the Delhi Pollution Control Committee (DPCC) to take steps for enforcing the directions of the Hon’ble Supreme Court and the Noise Rules with regard to control of use of loud speakers, control of vehicular noise and creation of awareness. The Commissioner of Police was to nominate a DCP and the Chief Secretary was to nominate a SDM who were to meet once in every week to take stock of the situation. They were to set up an exclusive website and dedicated helpline, apart from other steps. Report of compliance was to be filed.**
5. In Original Application. No. 496/2018, Original Application No. 196/2018 and Original Applicant No. 197/2018 also, similar grievance against non-enforcement of the Noise Rules in Delhi have been raised. Vide order dated 10.08.2018 in O.A No. 496/2018, joint inspection was directed to be conducted and report was directed to be furnished. The report dated 31.10.2018 was considered on 14.02.2019 along with O.A No. 196/2018 and O.A No. 197/2018 and directions were issued to take remedial action. The Tribunal also directed the presence of DCP (East), DCP (Shahdara) and DCP (South) with action plans. O.A No. 496/ 2018, O.A No. 196/2018 and O.A No. 197/2018 were again taken up on 14.03.2019, along with O.A 519/2016 and after interaction with the officers who are to enforce the Noise Rules, further directions were issued to identify and map hotspots, install noise measuring device on the devices causing high noise level, conduct surveillance and monitoring and conduct awareness and coordination with RWAs. The Commissioner of Police, Delhi was also to monitor and furnish a report to this Tribunal.”

3. The subject of enforcement of direction of having a joint Committee of one SDM nominated by the Chief Secretary, Delhi and one DCP representing Police Commissioner to exclusively monitor regulation of noise pollution was further considered on the next date i.e 12.02.2019. It was found that beyond nominating

³ *Supra* at 2 and (2005) 5 SCC 728

DCP and SDM by the Police Commissioner and the Chief Secretary respectively, no meaningful functioning of the joint Committee took place. The said nominated DCP and SDM were directed to remain present in person.

Again, on 14.03.2019, the Tribunal noted, in the presence of Mr. Deepak Purohit, DCP and Mr. Nitin Jindal, SDM (who were nominated by the Police Commissioner and Chief Secretary Delhi for the purpose) that practically no meaningful meeting had been held, no exclusive website had been set up and no effective steps had been taken. The DCP and SDM did not appear to be interested in the job assigned and put forward lame excuses for their failure. The Tribunal accordingly directed the Chief Secretary, Delhi and the Police Commissioner to review the appointments so that persons assigned the responsibility are suitable for the job, having regard to the adverse consequences of uncontrolled noise on health and welfare of the citizens. The Tribunal also directed the three Municipal Corporations of Delhi, New Delhi Municipal Council and Delhi Cantonment Board to take steps in the matter.

In today's hearing, unfortunately, no counsel for any of the authorities is in a position to mention the status of working of the joint Committee of SDM and the DCP. **We hope the Chief Secretary and the Police Commissioner will look into the continued violation of orders of this Tribunal and take corrective measures.**

4. We further note that the matter was thereafter monitored on 01.08.2019 in the light of earlier proceedings in the presence of DCPs (East, Shahadra and South

Delhi) and in the light of report furnished by the Special Commissioner of Police dated 15.04.2019. Unsatisfactory state of affairs was noticed as follows:

- “9. We find that though some steps have been taken, the enforcement of legal mandate under the Noise Pollution (Regulation and Control) Rules, 2000 and compliance of the directions of the Hon’ble Supreme Court and this Tribunal is still a far cry. Dr. M.P George, Scientist, DPCC, present during the hearing, has stated that **DPCC has only five monitoring stations which even according to him are not adequate**. The DPCC must undertake gap analysis and set up sufficient number of monitoring stations and acquire such number of equipments as may be necessary. Instructions may be issued for requiring noise measurement equipment to be fitted to the equipment used with the potential of high noise level beyond permissible limits. **There is need for instructions that noise levels be displayed at functions where high noise generating equipments are used**. The DPCC may notify the specifications and methodology for acquiring such equipment in consultation with concerned technical experts.
10. We sought information about the working of the Monitoring Committees - the Joint Committee and the Apex Committee. **There is nothing to show whether the Apex Committee has made any assessment of the monitoring mechanism on regular basis. It is not clear as to what activities such Committees are doing.**
11. Under Rule 4(3) of the Noise Rules, **the DPCC is required to collect, compile and publish technical and statistical data relating to noise pollution and to undertake measures for prevention, control and abatement of noise. This is not shown to have been done. As already noted, the DPCC does not even have sufficient equipment for collecting such data.**
12. It may be noted that while dealing with the issue of noise pollution in Original Application No. 681/2018 News Item Published in 'The Times of India' authored by Shri Vishwa Mohan "NCAP with Multiple Timelines to Clear Air in 102 cities To be Released Around August 15"⁴ this Tribunal, vide order dated 15.03.2019 **directed the CPCB to prepare noise pollution map and categorize the cities with specified hotspots and prepare a remedial action plan.**⁵ It was also noted that there as need for training regulatory machinery, prepare action plan and monitoring mechanism, create awareness among the students and involve RWAs, social

⁴ Order dated 15.03.2019

⁵ Para 12 in O.A 681/2018

and religious institutions, prosecute violators, seize equipment, recover compensation, install noise measurements meter by those using high noise generating equipment with data loggers fitted thereon. The Chief Secretaries of all the states were to finalize their action plans and submit the same to the CPCB. CPCB was to lay down the scale of compensation to be recovered, including the conditions subject to which a seized equipment was to be released. The report filed by CPCB in O.A No. 681/2018 on the subject, inter alia, shows that 46 metropolitan in 17 States/UTs have been identified for carrying out noise mapping and identification of hotspots. It has laid down National Ambient Noise Monitoring Network in 7 cities for 70 locations. Action Plans have been received from 10 States/UTs, including Delhi. **The Action Plan of Delhi was found to be non-compliant, with regard to training for use of measurement devices and to develop robust protocol for action against defaulters. With regard to integration of noise meters in public address systems, though the manufacturers associations have found it not to be economically feasible. States of Tripura and West Bengal⁶ have made polices for mandatory use of sound limiters in sound systems, for effective control of noise pollution.⁷ Use of loud speakers is permitted only when amplifiers are attached to sound limiters. The CPCB has suggested that this policy may be practiced by all states to mitigate noise pollution. Scale of compensation is however yet to be finalized. The report may be placed on the website of the CPCB for a period of three months.**

13. The CPCB needs to devise the scale of compensation to be adopted as a measure to enforce the Rule 4(2) of the Noise Pollution (Regulation and Control) Rules, 2000 by the concerned authority on the basis of 'Polluter Pays' principle. Though violation of the rules like the Noise Rules here, is a criminal offence punishable under Section 15 of the Environment (Protection) Act, 1986 with imprisonment upto five years and fine upto Rs. 1 lakh, since prosecution of a non-cognizable offence may have its own limitations, civil liability on 'Polluter Pays' principle can be invoked by the enforcement regulatory authority as per the

⁶ Reference has been also made to proceedings of the Eastern Zone in O.A 158/2016 (EZ).

⁷ See notification issued by the State of Tripura as follows: "In exercise of the power conferred by rule 5(3) of the Noise Pollution (Regulation and Control) Rules 2000 issued under the Environment (Protection) Act, 1986, the Governor of Tripura is pleased to issue this Notification for mandatory use of Sound Limiter(s) in all Sound System/ Public Address System for effective control of Noise pollution in the whole state with immediate effect as an addendum to rule 5. No sound system should be sold/ purchased/supplied/installed/let out/ used by any manufacturer/ dealer/shopkeeper/ any agency who lets out the PA system etc./ individual without having sound limiter in it. Further, all Licensing Authorities including Police Authorities, Municipal Corporation, Municipal Councils, Nagar Panchayats, Panchayat shall ensure that no audio system or public address system shall be let out/installed without being fitted with sound limiter in any government or non government function and this condition be included in all licenses issued by respective agencies.

*guidelines which may be laid down by the CPCB. **The scale of compensation may have reference to the extent and severity of default and whether the default is a repeated offence. Meaningful enforcement of the Noise Rules requires availability of noise measurement equipment and in the course of exercising power of enforcement under Rule 4(2), the authority can certainly lay down measures including the requirement of installing a noise meter on the noise creating equipment itself, such as loudspeakers, public address systems, DJs etc. under Rule 5, as has been done in West Bengal and Tripura and as recommended by the CPCB for all States/UTs.***

14. *In view of the above, we find it necessary to issue following directions:*

- (a) *Further steps for meaningful enforcement of Noise Rules be taken by the DPCC and concerned authorities.*
- (b) *Delhi Government may issue appropriate notification on the pattern of Notification issue by the Tripura Government for mandatory use of sound limiters in all sound systems⁸ Delhi Government may address the observations of CPCB finding deficiency in its action plan with regard to training for use of measurement devices and developing robust protocol for action against defaulters.⁹ A compliance report be filed.*
- (c) *Sound measuring devices as sought by the DCP East, Shahdara and South Districts be made available by the DCP logistics.¹⁰ Let the Special CP (Traffic), in-charge of the Apex Committee, file an affidavit about the methodology for assessing working of the Committees which are being overseen by the Apex Committee which may include compliance of directions issued to the DCP Logistics.*
- (d) *DPCC may undertake gap analysis and set up sufficient number of monitoring stations and acquire requisite number of equipment¹¹ compile and publish statistical data relating to noise pollution¹² prescribe interim scale of compensation pending finalization of the same by CPCB¹³ Compliance report may be filed by DPCC.”*

⁸ See para 9 above

⁹ See para 12 above

¹⁰ See para 7 above

¹¹ See para 9 & 12 above

¹² See para 11 above

¹³ See para 13 above

5. The matter was then considered on 20.11.2019 and situation was again found to be unsatisfactory. Accordingly, it was observed:-

- “15. We have reviewed the progress on the subject in light of the action taken report filed by Special Commissioner of Police (Traffic) of Delhi filed on 31.10.2019, report dated 11.11.2019 filed by the DPCC and the report dated 14.11.2019 filed by the CPCB.
16. Compliance status may be noted as follows. With regard to direction Nos. (a) and (d), there is hardly any further progress even after three months in the report of Special Commissioner of Police (Traffic) Delhi. **Requisite equipments have not been procured. Monitoring stations have not been set up in terms in observation of paragraph 9 of the earlier order. Only report is that tender process is going on. Locations have been identified. Technical specification are in the process of being finalized.** Further progress is that a workshop was organized on 16.04.2019 (which is prior even to the earlier order). Another workshop was scheduled for 13.11.2019. Template has been prepared.
17. Likewise, progress by the DPCC can hardly be held to be adequate. We are sorry to record that DPCC has been wholly amiss in performance of its duties. **There is no satisfactory data about the action for violations though violations are rampant and widespread which is failure on the part of all the concerned statutory authorities entrusted with the enforcement of law. Dr. M.P. George representing DPCC has made a statement that the requisite equipment will be procured within 60 days and monitoring stations will be set up within the said time.** In view of the long and continued failures in the past, it becomes necessary to direct that if this is not done even by 31.01.2020, Member Secretary, DPCC and Dr. M.P. George will not be entitled to draw salary till the direction of this Tribunal is complied with.
18. **Special Commissioner of Police, has stated in para 4 of the status report that the requisite equipments will be required by March, 2020.** Accordingly, the Special Commissioner of Police and Deputy Commissioner of Police (Provisioning and Logistics) will not be entitled to draw salary, if there is non-compliance even upto 01.04.2020, till compliance.
19. **With regard to (b), it is stated that Notification of Delhi Government is ready and will be issued within one week from today.** We hope that the statements will be faithfully complied with, failing which appropriate coercive action may have to be taken. Let the Chief Secretary, Govt. of Delhi coordinate this matter.

20. Compliance of directions with regard to training for use of the devices, and robust protocol for action against defaulters may be ensured. **As already directed vide order dated 27.09.2018, a dedicated telephone line with recording facility and a dedicated online grievance redressal portal for redressal of noise pollution related grievances be developed by Delhi Police and public awareness in this regard created.** A minimum grievance redressal timeframe be fixed and monitored by a supervisory authority. Action taken report may be accordingly filed before the next date.
21. We are informed that there are 2000 Eco-clubs in schools/ colleges. Awareness programme may be coordinated in such a way that at least one programme on the subject is held once a month in all such institutions. **The present level of awareness activities by Department of Environment, Govt. of NCT Delhi, is inadequate in terms of quality and quantity.** It needs to be properly planned and coordinated. Yearly action plan covering different thematic areas of environmental problems needs to be clearly identified, awareness activities planned and monitored. It would be appropriate if target groups are properly identified, logistic and personnel earmarked and action taken is monitored. This may be ensured jointly by the Department of Environment, DPCC and the Special Commissioner of Police in coordination with the Education Department of Delhi and a compliance report furnished by the DPCC before the next by e-mail at judicial-ngt@gov.in.
22. Report of CPCB is that compensation for violation by using equipments should be 10%-25% of cost of such equipment. Compensation suggested as follows:-

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 system (clause 5(1)-5(2), 6 (i,ii,iii&iv)	Rs. 10,000	Seizure
2.	Violation WRT Generator Sets Norms (standards attached as annexure – IV to VI)		
a)	DG sets more than 1000 KVA	Rs. 1,00,000/-	Sealing of DG sets
b)	DG sets 62.5 to 1000 KVA	Rs. 25,000/-	
c)	DG sets upto 62.5 KVA	Rs. 10,000/-	

3.	Violation of use of sound emitting construction equipment	Rs. 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)	Rs. 1000/-	

23. **We are of the view that compensation for bursting of crackers at serial No. 4 needs to be suitably revised and needs to be different for different classes of defaulters and frequencies of default.** Further, the CPCB has suggested that compensation should be 2-3 times for second and third violations accompanied by withdrawal of permission for installation/operation for their equipment.
24. **The CPCB may also lay down stringent compensation for tampering with the sound limiters to ensure that the same is not restored to.** Let compliance reports be filed by CPCB, Department of Environment, DPCC and Special Commissioner of Police, Delhi by 31.03.2020 by email at judicial-ngt@gov.in.”
6. In furtherance to above, following reports have been filed:
- (a) Report of the CPCB dated 12.06.2020;
 - (b) Reports of the DPCC dated 13.07.2020 & 06.08.2020;
 - (c) Report of the Delhi Government dated 15.07.2020; and
 - (d) Report of the Delhi Police dated 11.05.2020
7. We proceed to consider the above reports seriatim.
8. Report of the CPCB dated 12.06.2020 has laid down the regime of compensation and other action for violation of the Rules 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 SYSTEM ¹ (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)			
d)	DG sets more than 1000 KVA	₹ 1,00,000/-		Sealing of DG sets
e)	DG sets 62.5 to 1000 KVA	₹25,000/-		
f)	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	
		Silence Zone		
		1,000	3,000	
4(2)	Violation during Possession a. Public Rallies b. Barat during marriage Religious event	10,000	20,000	Fine to be paid by Organizer

4(3)	<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>	20,000	<i>Fine to be paid by Organizer and Owner of the place.</i>
4(4)	<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>	40,000	
4(5)	<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>	1,00,000 and action under EP Act.	<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"*

9. The DPCC filed its reports dated 13.07.2020 and 06.08.2020. In the report dated 13.07.2020, it is stated as follows:-

“ Action Taken

“4. It is most respectfully submitted that the following actions have been taken by the answering respondent to put in place a state of the art Ambient Noise Monitoring Network in Delhi:

(a) Installation of the additional Noise Monitoring System

That the already installed 5 noise monitoring stations across Delhi from the year 2013 were proving to be inadequate, considering the spurt in activities in the spread of urban and industrial areas in Delhi. Further it was felt that all the 4 categories of zones based on the ambient air quality standards in respect of noise as per the Noise Pollution (Regulation and Control) Rules, 2000 were not appropriately covered by the existing stations. So while carrying out the gap analysis, it was decided to increase the number of stations manifold to cover the major industrial and traffic corridors and to cover all the 4 zones as Industrial Area, Commercial Area, Residential Area and Silence Zone categorized as above under the Rules. Accordingly, as a step in that direction **26 additional locations were selected to cover the aforesaid zones for installation of noise monitoring stations. Out of the 26 additional locations, 7 are in residential, 9 in commercial, 5 in industrial areas and 5 in silence zones.** The details of the aforesaid locations are submitted below:

SN	Location Name	ZONE / AREA
1	Mahatma Gandhi Institute for Combating Climate Change, Bakthawarpur Road, Bakoli, Alipur	Silence Zone
2	Industrial Training Institute, Jahangirpuri, Delhi- 110033	Residential Area
3	Industrial Training Institute, Narela, New Delhi- 110040	Industrial Area
4	Sonia Vihar Water Treatment Plant (DJB), Sonia Vihar, New Delhi-110094	Residential Area
5	Mother Dairy Plant, 30, New Patpar Ganj Road, Block D, Patparganj, New Delhi-	Industrial Area
6	Satyawati College, Ashok Vihar, Phase-III, Delhi-110052	Residential Area
7	PGDAV College, Srinivasapuri Nehru Nagar, New Delhi-110065	Residential Area
8	National Institute of Tuberculosis & Respiratory Diseases, Sri Aurobindo Marg,	Silence Zone
9	Chaudhary Bramprakash Ayurvedic Hospital, Najafgarh, Delhi-110073	Silence Zone

10	Industrial Training Institute(Shandara), VivekVihar,	Residential Area
11	IARI PUSA, PUSA institutional Area, Opposite Lohamandi, Naraina, Delhi-110028	Industrial Area
12	Major Dhyanchand National Stadium, India Gate, New Delhi-110002	Commercial Area
13	J.L.N Stadium Pragati Vihar, New Delhi-110003	Commercial Area
14	Dr. Karni Singh Shooting Range,	Commercial Area
15	National Institute of Malaria Research Sector 8, Dwarka, New Delhi-110077	Commercial Area
16	Mundka Metro Residential Colony, Mundka, Delhi-110081	Residential Area
17	Shaheed Sukhdev College of Business Studies, PSP Area-IV, Dr. K.N. Katju Marg,	Silence Zone
18	Delhi Institute of Tool Engineering, Wazirpur Industrial Area, Wazirpur, Delhi-	Industrial Area
19	DITE, Okhla Industrial Area, Block A, Okhla Phase-II, Okhla Industrial Area,	Industrial Area
20	Maharshi Valmiki Hospital, Bawana Industrial Area, New Delhi-110039	Silence Zone
21	ISBT Building, Kashmere Gate, Delhi-110006	Commercial Area
22	SDMC, Primary School, Krishna Market, G Block, Lajpat Nagar, New Delhi-	Commercial Area
23	EDMC Zonal Office , Opposite Shyamlal College, Shandara, Delhi- 110032	Commercial Area
24	MCD Primary School, Gali No37, Regar Pura, Karol Bagh, New Delhi-110005	Commercial Area
25	IMD, Lodhi Road, New Delhi- 110003	Residential Area
26	Connaught Place, New Delhi- 110001	Commercial Area

In addition to this mobile monitoring/ stations will be made using more portable devices as also set out hereinafter. The new stations above are in addition to those already in place for the purpose.

(b) Constitution of an expert Committee for procuring equipments of latest technology

*Further considering the vast improvements made in the area of noise measurement technology and equipments over the years, it was decided to take the opinion of the domain experts in the field so that the equipments of latest technology with specifications as published by the International Standards Laboratories are procured for the large network being created. Accordingly, a Committee of experts comprising of Principal Scientist National Physical Laboratory (NPL), Scientist-D CPCB, AGM (Environmental Engineering) NTPC and DPCC was constituted and several meetings were held in the year 2019. The detailed technical specifications were finalized on 18.11.2019 and accepted on 28.11.2019. A copy of the same is annexed as **Annexure-***

1. It is pertinent to mention that the process of identifying appropriate technology and developing latest technical specifications of various equipments to be deployed as part of the network took some time as several references to international publications had to be made and wide consultations amongst experts were required to be carried out to arrive at the detailed technical specification of the equipments and the overall architecture of the noise monitoring network.

(c) Procurement of latest equipments

(i) It is most respectfully submitted that after finalization and acceptance of the various components of the Noise Monitoring Network and technical specifications of equipments, tender were floated immediately on 28.11.2019. The last date for the submission of tenders was fixed for 13.12.2019. The pre-bid meeting was held on 05.12.2019. As per the tender document the execution of the project was required to be carried out by 31.01.2020. Though initially eleven prospective bidders participated in the pre-bid meeting, majority of them were of the view that the timelines fixed in the tender are stringent considering the festival season in international market from where many things were to be sourced. However, keeping in mind the urgency and time lines, further extension of time for submission of bids was not considered, so that the project could be completed at an early date. DPCC finally received five bids and the Evaluation Committee after scrutinising the bids, found that none of the bidders met the requirements and thus, DPCC decided for re-tendering. It is submitted that the delay caused at this stage due to un-responsive and un-qualified tenders and which fact was beyond the control of DPCC.

(ii) Due to the poor response by the qualified agencies during the first tendering process, certain pre-qualification requirements were modified and the project was re-tendered on 18.12.2019 and the last date for submission of bids was kept on 09.01.2020 i.e after three weeks, considering the complexity involved in the project. The bids were opened on 09.01.2020, and after detailed technical and financial evaluation of the bids, **the work of 'Supply, Installation, Commissioning, Operation and Maintenance' of Ambient Noise Monitoring Station Network was awarded to M/s ACOEM Ecotech Industries Pvt. Ltd at a cost of Rs. 3,76,24,800 (Three Crores Seventy Six Lakh Twenty Four Thousand Eight hundred Rupees), including O&M for ten years.** Copy of the work order is annexed as Annexure-2. Considering the various activities involved in the project which include import of certain critical items, fabrication and installation at 26 locations spread throughout Delhi, 60 days execution period was granted to the agency. The agency submitted the acceptance of the work order on 25.02.2020 and the execution was initiated immediately.

(iii) It is submitted that by the last week of February, 2020 the Corona-19 pandemic was spreading fast in Europe and all activities there had come to stand still. However, constant follow up was made with the agency to ensure the urgent supply of the **IEC-61672-1:2013 traceable Class-I Noise**

Monitoring system including integral components such as microphone, pre amplifier and other specialized accessories by the Original Equipment Manufacturer (OEM) located in France by giving it top priority to complete the project at the earliest. The assembly of critical equipments were expedited and the shipment of the equipments to India by first week of March, 2020 was planned. However, due to the cancellation of international flights, these equipments could only be dispatched to Mumbai by third week of March, 2020. However, the custom clearance of the goods and the dispatch from Mumbai to Delhi got delayed due to lockdown effective from 22.03.2020. **Finally, the consignment was delivered at Delhi to the agency on 30.04.2020.**

(iv) The agency was asked to complete the activities on the domestic front simultaneously so as to complete the installation without further loss of time as soon as the equipments are received. Accordingly, the fabrication of mast and integration of enclosure for noise monitoring terminal (NMT) has been undertaken by sub-vendors at different industrial areas of Ghaziabad and Gautam Budh Nagar. Both the sub-vendors were located in containment zones and the entire process also got delayed from the scheduled timelines. With the gradual opening of various zones and activities, critical support was provided to the agency to complete the various tasks and start installation at the 26 identified locations by the first week of May, 2020. **The installation process of 20 stations could be completed by 31st May, 2020 with seamless coordination with various agencies and sub-vendors. In the rest of the stations, the installation were taken up in subsequent weeks.**

(v) As part of the contract, the agency has provided the central server/central receiving station along with the application software for analysis of environmental noise. The application software has the following features:

- **Measurement of Overall Leq (equivalent level of noise over a particular time period) and statistical indices over selected time periods.**
- **Measurement of Peak, Lmin, Lmax, Slow, Fast, Impulse, SEL, etc. levels.**
- **Identification of Loudest and quietest periods during a day.**
- **Calculation of the L_d & L_n by day, week, month.**

The NMS that has been installed provides a comprehensive but easy to use 24x7 noise monitoring solution for long term monitoring application. The NMS are unmanned, weatherproof outdoor remote terminals and require minimum human interface. The system could be remotely checked for multiple frequency calibration.

(vi) **DPCC has also procured 05 Hand held integrating-averaging sound level meters Type-1 IEC61672-1 compliant, in October, 2019. These meters are being used as mobile ambient noise monitoring stations. They can prove very useful to cover areas where reports are received or where larger areas need to be monitored. It is understood that these mobile units/stations are in addition to those being used by other agencies, like the Police, who have also procured substantial number of mobile units.**

(d) Data Analysis, compilation and publication

(i) The stations were put on the network through the central receiving server hosted at DPCC office on 1st June, 2020 after testing, calibration and validation of data and accordingly data of ambient noise measurements has been generated since 1st June, 2020. Based on the measurements since then, an analysis of the data generated for June, 2020 has been prepared which is annexed as **Annexure-3. On analysis of the data carried out by DPCC, it has been observed that in case of 5 silence zones, the average noise levels in both day and night have exceeded the standards prescribed under the Noise Rules, 2000. Similarly, in case of 7 residential and 9 commercial areas the recorded noise levels in both day and night times have exceeded the standards.** Only in the 5 industrial areas, the measured noise levels have not crossed the standards prescribed for industrial areas. The data will be moderated in coming months to arrive at baseline levels and averaging out impact of additional sources.

(ii) It is further submitted that subsequent to the aforesaid information obtained from the analysis of the data, it has been decided to identify the local sources of noise emissions so as to take appropriate corrective action. Teams have been constituted to visit the areas around these stations where the measurements are exceeded the prescribed standards and assess the sources of noise emission. Hand held integrating-averaging sound level meters Type-1 IEC61672-1 compliant, which were procured in October, 2019 have been provided to the inspecting team to enable them to identify the local sources of noise emission. **Based on the reports of the inspecting teams, further action will be taken as a constant process.** These reports will be forwarded to the authorities prescribed under Noise Rules for the appropriate action including prevention of noise emissions at these local sources.

(iii) **It has been further decided that every week the data received at the central station will be analysed and the same will be shared with the prescribed authorities, concerning the exceeding grades of noise level, supported duly by analysis of the data for further necessary action for stoppage of the source.**

(e) **Interim Compensation**

*It is most respectfully submitted that the Central Pollution Control Board has submitted a report on the scale of compensation to be levied for the violation of Noise Rules 2000 and **it has been decided to by the answering respondent to implement the same.***

In its additional report dated 06.08.2020, it is stated as follows:

- “3. That, the report on local survey was undertaken by the teams to identify the noise sources around the Real Time Noise Monitoring Stations. The specific reason for not meeting the prescribed standards for noise levels on each location is mentioned in the report. However, following are the major sources contributing to the noise level at these locations:
 - i. **Vehicular movement, Traffic congestions, Honking of horns, Bottle neck on roads,**
 - ii. **Congestion at traffic signal, Congestion and Chaotic condition at parking,**
 - iii. **Market across the road, Construction activity, Air conditioning exhaust etc.**
4. The silence area like Hospitals, Educational Institutes though have relatively less noise **but noise levels still exceed the prescribed standard due to regular vehicular movement in the vicinity.** The Commercial and Residential areas are also influenced by the vehicular noise, noise from markets/construction activity etc. Copy of the detailed report is annexed herewith as Annexure-1.
5. That after identifying the exact causes of noise pollution, directions under Section 5 of the Environment (Protection) Act, 1986 — read with Noise Pollution (Regulation and Control) Rules, 2000 have been issued to Traffic Police, Public Works Department and Municipal Corporations to take corrective action and file action taken report with DPCC. Copies are enclosed as Annexure-2 (Colly).”

10. Report of the Delhi Government dated 15.07.2020 is as follows:-

“3. The present status report is filed by Environment Department regarding above mentioned issues.

- (a) The Environment Department, Government of NCT of Delhi has issued the notification No. DPCC/(10)(10)...../Leg IS/Vol- 1/2019/6159 on 21.11.2019 as per the directions for mandatory use of sound limiters on the pattern of notification issued by Tripura Government in this regard. Under the aforesaid notification dated 21.11.2019, **no audio system or public address system will be let out / installed without being fitted with sound limiter in the whole of NCT of Delhi.** The Delhi Government has also authorised the District Magistrate/ Commissioner of Police or any other officer not below the rank of Dy.

Superintendent of Police and similarly placed officers in the urban local bodies to take necessary action. Copy of the aforesaid notification dated 21.11.2019 is annexed herewith as Annexure-I.

- (b) **Department of Environment, GNCTD has prepared the annual calendar on different thematic areas of Environmental Issues for Eco Club Activities for organizing awareness programs by Eco-Clubs in about 2000 Schools/Colleges once in a month.** Same was uploaded on the website of the Department of Environment and circulated in the Eco-club Schools and Colleges. Copy of the same is annexed herewith as Annexure-11.

Till date 20 schools have submitted action taken reports to Department of Environment. List of 20 schools who have submitted compliance is enclosed herewith as Annexure 111. Other eco clubs submitted that due to pandemic they will follow the calendar once regular classes are held.

- (c) Department has initiated Awareness through Eco club schools/ colleges through printed 1EC material and power point presentations (audio/video). This awareness material was also provided to Directorate of Education, GNCTD for circulating among students during online classes.
- (d) That Department of Environment has provided 1EC material in the form of pamphlets to all Deputy Directors of Education, GNCTD for distribution to all students on following topics such as:

- > Noise Pollution-Minimise and Control for our own Health
- > Yamuna-The lifeline of Delhi
- > Graded Response Action Plan (GRAP)- To Control Air Pollution
- > Dust Pollution — Protect Your City

The pamphlets prepared and distributed among students through ecoclubs and annexed as Annexure-IV (Colly)

In addition to pamphlets, power point presentation (audio-video) of technical officers of Department of Environment and DPCC were also provided to Science Branch of the Directorate of Education, GNCTD for necessary circulation among students during on-line classes on following topics such as:

- > Noise a Pollutant Monitoring and Legislations
- > Air Pollution-Issues and Its Control (Part-1)
- > Air Pollution - Monitoring and Management A case Study — Delhi
- > Plastic Waste Reuse, Recycle & Disposal with special emphasis on "SINGLE USE PLASTICS (SUPs)"
- > Climate Change and its impacts
- > Abatement of Pollution and Conservation of River Yamuna

Directorate of Education, GNCTD vide letter dated 13.07.2020 has informed uploading of the IEC material on the DOE website and also circulated among students through whats app. Copy of the same is enclosed as **Annexure V.**

- (e) Advertisements/ public notices on air pollution issues in compliance to Hon'ble Supreme Court order in W P. (C) 13029/1985 were issued on 06.11.2019 and 10.11.2019. Advertisement on "Beware of the Harmful Effect of Noise Pollution- helpline number, website, effects of noise pollution, sources and mitigation measures and say no to firecrackers was also published in newspapers on 16.11.2019
- (f) Department of Environment conducted workshop on 13.11.2019 on implementation of the Noise Pollution (Regulation & Control) Rules with designated Authorities under Noise Rules, 2000. This was followed by a High level Round table conference on 27.02.2020 on "Reducing Air Pollution" presided over by Hon'ble Minister (Environment & Forests), GNCTD. The workshops were attended by Experts from academic institutes, senior government officials NGOs, prominent Civil Society Organisation, Eco clubs of schools and colleges. Two more workshops were proposed for on 14.01.2020 (reproposed on 13.03.2020) and 17.03.2020 but could not be conducted due to Election Code of Conduct and COVID-19 pandemic.
- (g) Awareness program through nukkad nattaks on Diwali — Air Pollution issues (from 24.10.2019-31.10.2019) and on water pollution issues (01.11.2019 to 26.11.2019) was conducted for a month by NGO which performed around 150 shows (05 shows at 5 locations per day). Another round of awareness program through nukkad nattaks was conducted from 12.02.2020-13.03.2020 with 150 shows. These Nukkad nattaks/ Shows covered RWAs/ Unauthorised Colonies/ Slum Clusters/ Market Places etc with about 7500-8000 beneficiaries. Two more awareness programs through nukkad nattaks on abatement of water pollution and River Yamuna in Central and South District of Delhi has been approved but implementation halted due to COVID-19 pandemic.
- (h) Directorate of Education, GNCTD has also provided theme wise Yearly Action Plan on 03.06.2020. In the letter it was also informed that since school are closed, activities will be taken up after the schools reopen. Copy of the same is enclosed herewith as **Annexure-VI.**
- (i) On the directions of Yamuna Pollution Monitoring Committee (YPMC) constituted by this Hon'ble Tribunal in OA No. 06/2012 in the matter "Manoj Mishra Vs Union Of India and On.", department has initiated various awareness programme for abatement of water pollution in the

year 2019-20. Compendium of Awareness Activities on River Yamuna is annexed herewith as Annexure VII.

(j) Department of Environment has issued Advertisements in Newspapers/ Train Panel/ Metro Feeder buses / DTC buses on following themes:

- > On 21.11.2019 - "Our Yamuna our responsibility" in Hindustan Times, Times of India, Dainik Jagran, Punjab Kesari.*
- > On 29.12.2019 & 04.03.2020 - "Our Yamuna our responsibility" in Amar Ujala, Sunday Pioneer, Hindustan Times, Nav Bharat Times, Hindi Hindustan and Indian Express.*
- > On 24.12.2019 to 6.01.2020 - 'Our Yamuna our responsibility' on Metro Train Panel, Metro Feeder Buses wrap and DTC Buses wrap.*

(k) Workshops on idol immersion, River Yamuna pollution control were conducted on 29.08.2019, 04.10.2019, 06.11.2019 and 16.03.2019 for awareness among students of Eco-Clubs of schools/ colleges. More awareness activities are planned with 1GNCA on River Yamuna pollution control. Training was imparted by officers of Department of Environment, during state orientation program on "Cleanliness on River Yamuna" organized by SCERT for all heads of schools and Eco-club incharges of schools.

(l) Workshops cum meetings, advertisement, public notices have also been a part of awareness programmes by this department on the issues of Plastic bag menace, ban on Manjha etc. Department regularly celebrates International Environment days viz., World Environment day, International Ozone day, Van Mahotsav, etc.

4. That to ensure compliance of this Hon'ble Tribunal in the present OA and OA 681/2018, review meetings were held under the Chairmanship of Pr. Secretary (Environment), GNCTD on 21.02.2020, 25.02.2020 and 08.07.2020 with all stake holder departments. Minutes of the meeting dated 08.07.2020 is enclosed herewith as Annexure- VIII.

5. The Government of NCT of Delhi has further taken up the matter with DPCC for installation of sufficient number of Noise Monitoring Stations across Delhi, compile and publish statistical data relating to noise pollution and provide the same to various authorities for proper enforcement of Noise Rules, 2000. It has been reported by DPCC that the Noise Monitoring Network covering 26 locations across Delhi has been installed and data is being compiled since June, 2020."

11. The report of the Delhi Police on Noise Pollution is as follows:-

"2. That, in order to comply the above mentioned directions and earlier orders of Hon'ble Tribunal in letter and spirit, the matter has been reviewed by Commissioner of Police,

Delhi and a new comprehensive plan has been devised to control noise pollution. For better implementation and monitoring the noise pollution matters, the Commissioner of Police, Delhi has constituted **specialized Operational Committees under the Chairmanship of respective Spl.CsP**. Details of the responsibilities of Operational Committees is annexed as Annexure-A. The respective Spl.CsP have been assigned to monitor, superintendence, regulation, co-ordination and effective control of noise pollution in their respective spheres and jurisdiction. While the heads of Operational Committees will monitor the action taken concerning their respective areas, the Apex Committee will look into policy issues, if any, referred by the Operational Committees.

Apart from above, two meetings on noise pollution matters were conducted on 13-01-2020 and 20-01-2020, first chaired by Commissioner of Police himself, and the second chaired by Spl.CP/Genl. Adm. Various directions to the filed formations were given for better enforcement of noise pollution laws. Minutes of the meetings have been annexed at Annexure B1 & B2.

Besides the above, respective incharges of Operational Committees were shared with the status of action taken by field functionaries time to time with the observation of the Commissioner of Police for better enforcement of noise pollution laws and for compliance of directions of the Hon'ble Apex Court and NGT in this regard.

3. That, in pursuance to the directions mentioned in Para No -18 of the order, **two hundred forty four (244) Sound Level Meters (SLMs) have been procured by Delhi Police on 05.03.2020. Further, the Sound Level Meters have been distributed in the manner that each designated Police Officer i.e. ACP/Sub-division and all Police Stations shall be equipped with at least one Sound Level Meter.**

A training for Trainers course for all the designated Police Officers under the noise pollution rules has been conducted on 13.03.2020 at Conference Hall, PCR Complex, Model Town-II, Delhi. In this course, all participants were sensitized on noise pollution rules and regulations. The engineers of the supplier company i.e. Amsh productline gave a demonstration as to how to operate the SLMs and resolved the queries of trainers. Minutes of the training programme has been annexed at Annexure 'C'.

4. That, in view of the directions of Hon'ble Tribunal, **the public redressal mechanism has been intensified so that the complaints of the people could be resolved promptly. The noise pollution calls are being attended 24x7 by trained operators at the Integrated Complex at ERSS, Haiderpur and**

immediately transferred to local police stations for redressal.

Further, the grievances registered on web portal are also being attended by respective SHOs and ACsP for early disposal.

In this reference, a detailed Standard Operating Procedure (SOP) has also been made by DCP/Operations and Communications for developing a robust protocol for disposal of calls received through phone/ web portal and their timely and effective transfer to districts concerned for appropriate legal action. (Annexure-D)

5. *That, analysis of calls received on exclusive helpline and dedicated website w.e.f. 01.01.2020 to 15.03.2020, reveals that 971 calls were received on helpline no. and 502 grievances were registered on web portal. During the above-mentioned period, 4427 legal actions were taken on the grievances registered on web portal, calls received on helpline and ERSS-112 against the noise violators under Indian Penal Code, Criminal Procedure Code and local and special laws like DP Act, Environment Protection Act, etc.*
6. *That, Traffic Unit of Delhi Police has taken regular actions against the drivers indulging in honking, using pressure horns, modified silencers and violating noise violations in silence zone.*

During 01.01.2020 to 15.03.2020, 662 violators were booked for honking, 3583 for pressure horns, 1792 for modified silencers and 273 for violating silence zone restrictions.

7. *That, in compliance to the directions of the Hon'ble Tribunal, awareness programme has been undertaken by Delhi Police. An advertisement on 'Noise Pollution' publishing dedicated helpline No.155271 and website <http://ngms.delhi.gov.in> has been released in 30 newspapers (English, Hindi, Urdu and Punjabi) on 19.02.2020. Beside the above, an FM radio spot on 'Noise Pollution' of 35 seconds duration was allotted w.e.f. 28.02.2020 to 08.03.2020 (10 days) on 08 FM Channels. (Annexure-E)*
8. *That, in compliance to the orders of Hon'ble NGT, Delhi Police has taken proactive steps at district level too. During the period 01-01-2020 to 15-03-2020, 992 meetings were conducted with RWAs, Volunteers and NGOs and 281 sensitization programmes in educational institutions were organized at Police Station and District level."*

12. While we find that certain steps have been taken by the Delhi Police, Delhi Government, DPCC and the CPCB, **further steps are required to**

ensure that the noise pollution norms are enforced at the ground level for protection of public health and the environment in the light of orders already passed. We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. **The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTs.**

13. We find that while some regulatory framework is said to have been made operational, there is no effective centralized mechanism for monitoring. **Representatives of the Chief Secretary (SDM) and the Police Commissioner(DCP) ought to jointly take stock of the situation on weekly basis. Suitable officers of the rank of the DCP in Delhi Police and SDM in Delhi Government need to be spared for undertaking the assigned responsibility, as already directed.** As noticed earlier, though the DCP and the SDM were nominated, on being summoned by this Tribunal, they were found to be non-functional and thereafter, we are informed that even today they are not functional. **This state of affairs must be forthwith remedied by the Police Commissioner and the Chief Secretary respectively.** They may ensure that their representatives are duly and jointly functional and conduct weekly meetings and maintain the minutes of meetings and the website. They may work in tandem with all other regulatory bodies including the DPCC and the Municipal Corporations. **The entire data collected on the noise monitoring equipments may be centralized and placed on their exclusive websites. They may also coordinate and follow-up the corrective measures with all other agencies and may also monitor functioning of the eco-clubs. The DPCC/other authorities may get prepared an appropriate App(like Sameer) to facilitate receiving and addressing complaints. If Delhi becomes a model of compliance for**

enforcement of pollution norms, it may help all other States/UTs to follow the same.

14. Having regard to the repeated failures, in the last several years, **we find it necessary to constitute a monitoring committee to be headed by a former Judge of the High Court to ascertain the status of compliance in the light of the present order and suggest further measures in the context of Delhi for enforcement of noise pollution control measures.** The Tribunal has earlier constituted a committee headed by Justice S.P Garg, former Judge of Delhi High Court, to monitor compliance of directions with regard to restoration of water bodies and installation of Rain Water Harvesting Systems, use of treated water and allied issues. Instead of constituting another committee, we request Justice S.P Garg to head the proposed Committee. Justice S.P Garg may be assisted by nominees of the DPCC, Delhi Police and the Chief Secretary, Delhi. The Committee may take assistance of any other experts/institution and associate such members of public/educational institutions/social organizations as may be found useful. The Committee may give its report before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

A copy of the report to be submitted to this Tribunal may also be furnished to the Chief Secretary, Delhi, Police Commissioner, Delhi, CPCB, DPCC, New Delhi Municipal Council, East Delhi Municipal Corporation, South Delhi Municipal Corporation, North Delhi Municipal Corporation, Delhi Cantonment Board and the Municipal Corporations for their response, if any.

A copy of this order be forwarded for compliance to the Chief Secretary, Delhi, Police Commissioner, Delhi, CPCB, DPCC, New Delhi Municipal Council, East Delhi Municipal Corporation, South Delhi Municipal Corporation, North Delhi Municipal Corporation and Delhi Cantonment Board by email.

A copy of this order be also forwarded to Justice S.P. Garg, former Judge, Delhi High Court by email.

List for further consideration on 15.04.2021.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

August 11, 2020

Original Application No. 519/2016 & connected matters

AK

Item Nos. 01 to 04

Court No. 1

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

Original Application No. 249/2020

Tribunal on its own Motion

Applicant(s)

Versus

Ministry of Environment, Forest
& Climate Change & Ors.

Respondent(s)

WITH

Original Application No. 254/2020

Shobhit Shukla

Applicant(s)

Versus

Govt. of NCT of Delhi

Respondent(s)

WITH

Original Application No. 255/2020

Chirag Jain

Applicant(s)

Versus

Govt. of NCT of Delhi

Respondent(s)

WITH

Original Application No. 93/2020(CZ)

Dr. P. G. Najpande & Anr.

Applicant(s)

Versus

State of M. P. & Ors.

Respondent(s)

Date of hearing: 01.12.2020

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

Applicants: Mr. Raj Panjwani, Senior Advocate with Ms. Shibani Ghosh, Advocate
(Amicus Curiae)
Mr. Shobhit Shukla Applicant in Person in OA 254/2020
Mr. Chirag Jain Applicant in Person in OA 255/2020
Mr. Prabhat Yadav, Advocate for Applicant in OA 93/2020 (CZ)

Respondents: Mr. Balendu Shekhar, Advocate for MoEF & CC
Mr. Raj Kumar, Advocate for CPCB
Ms. Jyoti Mendiratta, Advocate for GNCTD
Mr. Pradeep Misra, Advocate & Mr. Daleep Dhyani, Advocate for

State of UP
 Mr. Rahul Khurana, Advocate for State of Haryana
 Mr. Gaurav M. Liberahan Advocate for State of Punjab
 Ms. Parul Bhadoria, Advocate for State of Madhya Pradesh
 Ms. K. Enatoli Sema, Advocate for State of Nagaland
 Mr. Ram Shankar Adv for State of Tamil Nadu
 Ms. G. Indira, Advocate for UT of Andaman & Nicobar
 Mr. Narender Pal Singh, Advocate for DPCC
 Mr. Mukesh Verma, Advocate for UKPCB
 Mr. TVS Raghavendra Sreyas Advocate for APPCB
 Mr. Dhananjay Baijal Advocate for TSPCB

ORDER

The Issue

1. Question for consideration in these matters is the remedial action against pollution by use of fire crackers, aggravating the menace of Covid-19 pandemic, posing higher danger to the lives and health of the vulnerable groups.

Procedural History

2. While control and regulation of fire crackers has been considered by the Hon'ble Supreme Court earlier, **aggravation of the problem during Covid-19 pandemic and remedial action for the same** has been taken up in the present matter. On 09.11.2020, after a detailed consideration, the Tribunal issued directions against sale or use of all kinds of fire crackers from midnight of November, 9-10, 2020 to the midnight of November 30 – December 1, 2020 in the NCR and all cities/towns in the country **where the average of ambient air quality during November fell under 'poor' and above category.** Direction was also issued for **restricting use of fire crackers to green crackers in cities/towns where air quality was 'moderate' or below, only for two hours and only during festivals like Diwali, Chatt, New Year/Christmas Eve etc.,** as may be specified by the concerned State. The conclusion and directions in the said order are quoted below for ready reference:

“VIII Conclusion and Directions

44. *In view of above, having regard to increased adverse health impact of pollution by use of crackers on Covid-19, aggravating risk to lives and health which has led to ban by the Governments of Odisha, Rajasthan, Sikkim, UT Chandigarh, DPCC and by the Calcutta High Court on sale and use of crackers,, applying the ‘Sustainable Development’ and ‘Precautionary’ principles, a case is made out for issuing directions for banning sale and use of fire crackers during November 9 to 30 in areas where air quality is ‘poor’, ‘very poor’ and ‘severe’.*

45. *Further, case is made out for restricting sale and use of fire crackers in areas with moderate and poor air quality where also on account of Covid19, there will be serious adverse effects, though less than areas where air quality is poor and above. In such areas, unless covered by the ban or restrictions by the authorities, restrictions on the pattern of those imposed by the Hon’ble Supreme Court vide order dated 23.10.2018, (2019) 13 SCC 523, reproduced in para 32 above will apply i.e. only green crackers be sold and use of crackers will be allowed only for two hours during festivals and not on any other day during November 9 to 30.*

46. *It is well known that in NCR, this threshold is continuously crossed during November. Thus, ban will be absolute in NCR.*

47. *Outside the NCR, where air quality standards are poor or more than poor during November, the sale and use of fire cracker has to be banned. It is not necessary to distinguish between non-attainment and other cities. Even in non-attainment cities, though average air quality may not be as per norms for five years, it may be poor or above during November. On the other hand, even in non-attainment cities, air quality may not be as per norms but may not be ‘poor’ or more than that. This is demonstrated by the data from CPCB website in respect of certain cities quoted above. In Haryana, there is no non-attainment cities in the list of 122, but as per air quality data of CPCB ‘Fatehabad’, falling outside NCR has ‘severe’ air quality in November. Similarly, Hisar, Bahadurgarh, Ballabgarh, Dharuhera, Kaithal, Kurukshetra and Manesar are falling under ‘very poor’ category of air quality and Ambala, Narnaul, Palwal and Sirsa in ‘poor’ air quality. Similarly, for the State of Punjab, only Amritsar, Jalandhar, Khanna and Ludhiana are shown in the ‘poor’ category of air quality out of eight non-attainment cities. This will not be read as debarring the authorities from taking more cautious approach in prohibiting/restricting fire crackers to any other areas not covered by prohibition or restrictions under this order, as has already been done by some of the States.*

48. *Accordingly, we direct as follows:*

- i. There will be total ban against sale or use of all kinds of fire crackers in the NCR from midnight of November,***

9 -10, 2020 to the midnight of November 30 - December 1, 2020, to be reviewed thereafter.

- ii. **Direction (i) will also apply to all cities/towns in the country where the average of ambient air quality during November (as per available data of last year) fall under 'poor' and above category.**
- iii. **The cities/towns where air quality is 'moderate' or below, only green crackers be sold and the timings for use and bursting of crackers be restricted to two hours during festivals, like Diwali, Chatt, New Year/Christmas Eve etc., as may be specified by the concerned State. This direction is on pattern of direction of the Hon'ble Supreme Court in (2019) 13 SCC 523 which we are applying to areas moderately polluted or below air quality due to aggravated effect during Covid-19, as already noted. If nothing is specified by the State, timing will be 8 to 10 pm on Diwali and Gurupurb, 6 am to 8 am on Chatt and 11.55 pm to 12.30 am during Christmas and New year eve (which have yet to come and do not fall in November but if ban continues) and not otherwise.**
- iv. *At other places, ban/restrictions are optional for the authorities but if there are more stringent measures under orders of the authorities, the same will prevail.*
- v. *All States/UTs/PCBs/PCCs may initiate special drives to contain air pollution from all sources in view of potential of aggravation of Covid-19*
- vi. *The Chief Secretaries and DGPs of all the States/UTs may issue and circulate an appropriate order in above terms with appropriate enforcement guidelines to all the District Magistrates and Superintendents of Police, PCBs/PCCs.*
- vii. *The CPCB and the State PCBs/PCCs may regularly monitor the air quality during this period which may be uploaded on their respective websites. CPCB may compile information on the subject, including the status of compliance of this order from all the States/UTs and file a consolidated report with data compiled till filing of report, before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.*

Consideration Today

3. The mater has been taken up today to consider whether any further direction on the subject is required after November 30, 2020.

4. As already mentioned, the Hon’ble Supreme Court considered the matter **at pre-covid stage**. The health impacts of air quality beyond norms were noted as follows¹:

Table 1

“

<i>AQI</i>	<i>Associated Health Impacts</i>
<i>Good (0-50)</i>	<i>Minimal impact.</i>
<i>Satisfactory (51-100)</i>	<i>May cause minor breathing discomfort to sensitive people.</i>
<i>Moderately polluted (101-200)</i>	<i>May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.</i>
<i>Poor (201-300)</i>	<i>May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease.</i>
<i>Very Poor (301-400)</i>	<i>May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases.</i>
<i>Severe May (401-500)</i>	<i>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.</i>

”

5. Air quality grading was noted as follows:

Table 2

“

<i>AQI Category, Pollutants and Health Breakpoints</i>								
<i>AQI category (Range)</i>	<i>PM₁₀ 24-hr</i>	<i>PM_{2.5} 24-hr</i>	<i>NO₂ 24-hr</i>	<i>O₃ 8-hr</i>	<i>CO 8-hr (mg/m³)</i>	<i>SO₂ 24-hr</i>	<i>NH₃ 24-hr</i>	<i>Pb 24-hr</i>
<i>Good (0-50)</i>	<i>0-50</i>	<i>0-30</i>	<i>0-40</i>	<i>0-50</i>	<i>0-1.0</i>	<i>0-40</i>	<i>0-200</i>	<i>0-0.5</i>
<i>Satisfactory (51-100)</i>	<i>51-100</i>	<i>31-60</i>	<i>41-80</i>	<i>51-100</i>	<i>1.1-2.0</i>	<i>41-80</i>	<i>201-400</i>	<i>0.5-1.0</i>
<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>

”

¹ in Arjun Gopal v Union of India, (2017) 1 SCC 413

6. The Hon'ble Supreme Court, considering the adverse impact of crackers on air quality and adverse impact of air pollution on health, directed, vide Order dated 11.11.2016 as follows²:

"We direct the Central Government to:

- (i) Suspend all such licenses as permit sale of fireworks, wholesale and retail, within the territory of NCR.*
- (ii) The suspension shall remain in force till further orders of this Court.*
- (iii) No such licenses shall be granted or renewed till further orders."*

7. Thereafter, on 12.09.2017, in *Arjun Gopal v. Union of India* (2017) 16 SCC 280³ it was observed that instead of total prohibition, graded regulation of fire crackers was necessary, which would eventually result in prohibition. Accordingly, the earlier order was modified to restrict the temporary licenses to 50%, pending further consideration.

8. Thereafter, vide order dated 23.10.2018, in *Arjun Gopal v. Union of India*, (2019) 13 SCC 523,⁴ while banning certain categories of fire crackers and directing regulation of the remaining, it was inter-alia directed that on Diwali days or other festivals, fire crackers will be used strictly between 8 p.m. to 10 p.m. only with different timings for some other festivals. Further, the Union of India, Government of NCT of Delhi and the State Governments of NCR would permit **community fire crackers** only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. The operative part of the order is as follows:

"48. *We are of the opinion that the aforesaid suggestions strike a nice balance between the two competing interests. We accept the aforesaid measures as suggested by the Union of India and direct the Union of India and other authorities concerned to implement the same with immediate effect. In view thereof, the following specific directions are issued:*

² Arjun Gopal vs. UOI, supra

³ Para 69 to 72

⁴ Para 48

- 48.1. *The crackers with reduced emission (improved crackers) and green crackers, as mentioned in Suggestions II and III above only would be permitted to be manufactured and sold.*
- 48.2. *As a consequence, production and sale of crackers other than those mentioned in Suggestions II and III is hereby banned.*
- 48.3. *The manufacture, sale and use of joined firecrackers (series crackers or laris) is hereby banned as the same causes huge air, noise and solid waste problems.*
- 48.4. *The sale shall only be through licensed traders and it shall be ensured that these licensed traders are selling those firecrackers which are permitted by this order.*
- 48.5. *No e-commerce websites, including Flipkart, Amazon, etc., shall accept any online orders and effect online sales. Any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the Court may also pass, in that eventuality, orders of monetary penalties as well.*
- 48.6. *Barium salts in the fireworks is also hereby banned.*
- 48.7. *PESO is directed to review the clinical composition of fireworks, particularly reducing Aluminium content, and shall submit its report in respect thereof within a period of two weeks from today. For undertaking this exercise, PESO would also associate FRDC.*
- 48.8. *Even those crackers which have already been produced and they do not fulfil the conditions mentioned in Suggestions II and III above will not be allowed to be sold in Delhi and NCR.*
- 48.9. *PESO will ensure fireworks with permitted chemicals only to be purchased/possessed/sold/used during Diwali and all other religious festivals, of any religion whatsoever, and other occasions like marriages, etc. It shall test and check for the presence of banned chemicals like lithium/arsenic/antimony/lead/mercury.*
- 48.10. *PESO will ensure suspension of the licences of manufacturers of such fireworks items and appropriate disposal of such stock.*
- 48.11. *PESO will ensure that only those crackers whose decibel (sound) level are within the limits are allowed in the market and will ensure to take action by suspending the licences of the manufacturers on such violations and disposal of such lots. To add to it, as mentioned in the order dated 12-9-2017, the directions issued and restrictions imposed in the order passed by this Court on 18-7-2005 in Noise Pollution shall continue to be in force.*
- 48.12. *Directions 4 to 9 and 11 contained in the order dated 12-9-2017 shall continue to operate and are reiterated again.*
- 48.13. *Extensive public awareness campaigns shall be taken up by the Central Government/State Governments*

/Schools/ Colleges informing the public about the harmful effects of firecrackers.

- 48.14. On Diwali days or on any other festivals like Gurupurab, etc., when such fireworks generally take place, it would strictly be from 8.00 p.m. till 10.00 p.m. only. On Christmas eve and New Year's eve, when such fireworks start around midnight i.e. 12.00 a.m., it would be from 11.55 p.m. till 12.30 a.m. only.*
- 48.15. The Union of India, Government of NCT of Delhi and the State Governments of NCR would permit community firecracking only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. For this purpose, particular area/fields would be pre-identified and predesignated by the authorities concerned. This exercise shall be completed within a period of one week from today so that the public at large is informed about the designated places one week before Diwali. The areas designated now for the purpose of Diwali shall be valid for community firecracking on other occasions/festivals as well, as mentioned above. Even for marriages and other occasions, sale of improved crackers and green crackers is only permitted. Insofar as other States are concerned, an endeavour shall be made by them also to explore the feasibility of community firecracking. However, it is made clear that Direction 48.14 pertaining to the duration within which fireworks can take place on all such occasions would be applicable throughout India. Similarly, Direction 48.13 for extensive public awareness campaigns is also a pan India direction.*
- 48.16. All the official respondents, and particularly the police, shall ensure that fireworks take place only during the designated time and at designated places, as mentioned above. They shall also ensure that there is no sale of banned firecrackers. In case any violation is found, the Station House Officer (SHO) of the police station of the area concerned shall be held personally liable for such violation and this would amount to committing contempt of the Court, for which such SHO(s) would be proceeded against.*
- 48.17. CPCB and respective State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) of the States and Union Territories shall carry out short-term monitoring in their cities for 14 days (commencing from 7 days prior to Diwali and ending 7 days after Diwali) for the parameters namely, aluminium, barium, iron apart from the regulatory parameters against the short-term Ambient Air Quality Criteria Values (AAQCVs) proposed by CPCB with regard to bursting of firecrackers. This will help in generation of data on pollution caused by the bursting of firecrackers and would be helpful for regulation and control quantity of aluminium, barium and iron used in the manufacture of firecrackers.*

49. *One clarification needs to be given at this stage. Our discussion pertaining to the arguments based on Article 19(1)(g), Article 25 as well as the argument of loss of substantial revenue and unemployment, in cases the manufacture and sale of the firecrackers is totally banned, is prima facie and we have not given our conclusive determination. It is because of want of detailed studies on various aspects which have been mentioned and taken note of during discussion in this order. However, we also make it clear that, prima facie, we do not find much merit in these arguments for which we have given our reasons in brief.*
50. *Having regard to the overall circumstances, we have decided that, for the time being, a balanced approach to tackle this problem is needed, which may take care of the concerns of both the parties and, at the same time, provide a reasonable and adequate solution. When the picture would become clearer after the requisite studies/research is undertaken, more stringent measures can be adopted in future if the situation so warrants.”*

9. While issuing the above directions, ‘Precautionary’ principle was invoked with the following observations:

“ xxx xxx xxx

37 The aforesaid findings are sufficient to negate the arguments of the opposite side that there is absence of scientific study about the adverse effect of firecrackers during Diwali. In environmental law, “precautionary principle” is one of the well-recognised principles which is followed to save the environment. It is rightly argued by the petitioners that this principle does not need exact studies/material. The very word “precautionary” indicates that such a measure is taken by way of precaution which can be resorted to even in the absence of definite studies. In Vellore Citizens' Welfare Forum [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647], this Court explained the principle in the following manner: (SCC pp. 658 & 660, paras 11 & 14-16)

- 11.**
- | | | |
|------------|------------|------------|
| xxx | xxx | xxx |
| xxx | xxx | xxx |
- (ii) *Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
- (iii) *The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.*

xxx

xxx

xxx

38. *The precautionary principle accepted in the aforesaid judgment was further elaborated in A.P. Pollution Control Board case [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718] as under: (SCC pp. 732-34, paras 31-35)*

“31. The “uncertainty” of scientific proof and its changing frontiers from time to time has led to great changes in environmental concepts during the period between the Stockholm Conference of 1972 and the Rio Conference of 1992. In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] a three-Judge Bench of this Court referred to these changes, to the “precautionary principle” and the new concept of “burden of proof” in environmental matters. Kuldeep Singh, J. after referring to the principles evolved in various international conferences and to the concept of “sustainable development”, stated that the precautionary principle, the polluter pays principle and the special concept of onus of proof have now emerged and govern the law in our country too, as is clear from Articles 47, 48-A and 51-A(g) of our Constitution and that, in fact, in the various environmental statutes, such as the Water Act, 1974 and other statutes, including the Environment (Protection) Act, 1986, these concepts are already implied. The learned Judge declared that these principles have now become part of our law.

xxx

xxx

xxx

33. A basic shift in the approach to environmental protection occurred initially between 1972 and 1982. Earlier, the concept was based on the “assimilative capacity” rule as revealed from Principle 6 of the Stockholm Declaration of the U.N. Conference on Human Environment, 1972. The said principle assumed that science could provide policy-makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm. But in the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the “precautionary principle”

xxx

xxx

xxx

34. xxx

xxx

xxx

“There is nothing to prevent decision-makers from assessing the record and concluding that there is

inadequate information on which to reach a determination. If it is not possible to make a decision with “some” confidence, then it makes sense to err on the side of caution and prevent activities that may cause serious or irreversible harm. An informed decision can be made at a later stage when additional data is available or resources permit further research. To ensure that greater caution is taken in environmental management, implementation of the principle through judicial and legislative means is necessary.’

xxx

xxx

xxx

44. Applying the aforesaid principle, in the first blush it may appear that the aforesaid argument has substantial force in it. However, that would be only one side of the picture as there are two contra-arguments which are sufficient to take the sheen out of the aforesaid plea. First aspect is that the argument of economic hardship is pitched against right to health and life. When the Court is called upon to protect the right to life, economic effect of a particular measure for the protection of such right to health will have to give way to this fundamental right. Second factor, which is equally important, is that the economic loss to the State is pitched against the economic loss in the form of cost of treatment for treating the ailments with which people suffer as a result of burning of these crackers. Health hazards in the form of various diseases that are the direct result of burning of crackers have already been noted above. It leads to asthma, coughing, bronchitis, retarded nervous system breakdown and even cognitive impairment. Some of the diseases continue on a prolonged basis. Some of these which are caused because of high level of PM_{2.5} are even irreversible. In such cases, patients may have to continue to get the medical treatment for much longer period and even for life. Though there are no statistics as to what would be the cost for treating such diseases which are as a direct consequence of fireworks on these occasions like Diwali, it can safely be said that this may also be substantial. It may be more than the revenue which is generated from the manufacturers of the crackers. However, we say no more for want of precise statistical data in this behalf.”

Discussion in Tribunal’s earlier Order

10. The effect of air pollution, aggravated by use of crackers on Covid-
19 pandemic was considered by this Tribunal in the order dated
09.11.2020 as follows:

*“14. Shri Panjwani referred to the articles referred to above during hearing. In ‘A. Pozzer et al, ‘Regional and global contributions of air pollution to risk of death from COVID-19’ Cardiovascular Research, which is an article published by the **European Society of***

Cardiology, revised on 03.10.2020, a study has been conducted about the nexus of Covid-19 and air pollution using relevant data and attributable fraction. It is opined that both **the air pollutant PM_{2.5} and the SARS-CoV-2 virus enter the lungs via the bronchial system (portal organ), with potential systemic health impacts through the blood circulation. Both PM_{2.5} and SARS-CoV-2 cause vascular endothelial dysfunction, oxidative stress, inflammatory responses, thrombosis, and an increase in immune cells. The SARSCoV-2 infection facilitates the induction of endothelial inflammation in several organs as a direct consequence of viral cytotoxic effects and the host inflammatory response, which can aggravate pre-existing chronic respiratory and vascular (coronary) dysfunction, and cause lung injury by alveolar damage, as well as stroke and myocardial infarction by inducing plaque rupture. Potential common pathophysiological mechanisms of increased risk thus relate to endothelial injury and pathways that regulate immune function. Further, there are strong indications of increased susceptibility to viral infections from exposure to air pollution.**

Lung injuries, including the life-threatening acute respiratory distress syndrome and respiratory failure, as well as acute coronary syndrome, arrhythmia, myocarditis, and heart failure, were shown to be clinically dominant, leading to critical complications of COVID-19. **Recent studies in China, the USA, as well as Europe indicate that patients with cardiovascular risk factors or established cardiovascular disease and other comorbid conditions are predisposed to myocardial injury during the course of COVID-19. From the available information, it thus follows that air pollution-induced inflammation leads to greater vulnerability and less resiliency, and the pre-conditions increase the host vulnerability. Air pollution causes adverse events through myocardial infarction and stroke, and it is an additional factor capable of increasing blood pressure, while there is emerging evidence for a link with type 2 diabetes and a possible contribution to obesity and enhanced insulin resistance. Bronchopulmonary and cardiovascular pre-conditions, including hypertension, diabetes, coronary artery disease, cardiomyopathy, asthma, COPD, and acute lower respiratory illness, all negatively influenced by air pollution, lead to a substantially higher mortality risk in COVID-19. Furthermore, it seems likely that fine particulates prolong the atmospheric lifetime of infectious viruses, thus favouring transmission. It is possible that future research will reveal additional pathways that mediate the relationship between air pollution and the risk of death from COVID-19.**

15. In article by Aparna Banerjea titled '**After studies, it's clear that air pollution contributes to Covid mortality: ICMR**' Mint, 27 October 2020', it is mentioned that **the ICMR studies have proved that long-term exposure to air pollution has been linked to an increased risk of dying from Covid-19. It is further stated that there have been studies from Europe and US, where they have looked at polluted areas and have compared mortality during lockdown and correlation with pollution. "It is found that**

pollution is contributing to mortality in COVID, that's well established by studies," said Dr. Balram Bhargava, DG ICMR, in a health ministry briefing today.

According to a study, published in Cardiovascular Research, scientists estimated that about 15% of deaths worldwide from COVID-19 could be attributed to long-term exposure to air pollution. In Europe the proportion was about 19%, in North America it was 17%, and in East Asia about 27%.

....

....

....

The study further mentions that the Air Quality Index (AQI) (as on 04.11.2020) was recorded at 346 in Rohini, 329 in RK Puram, 377 in Anand Vihar, and 363 in Mundka, all four in the 'very poor' category, as per Central Pollution Control Board (CPCB) data. In an attempt to curb the increasing air pollution in the national capital, the Delhi government recently launched the 'Red Light On, Gaadi Off' campaign as part of its 'Yuddh Pradushan Ke Viruddh' (War Against Pollution) initiative. Along with this, Delhi Environment Minister Gopal Rai had also announced the launch of a campaign starting on Monday to include the citizens of the capital in raising awareness on air pollution.

16. In article by Sandipan Talukdar titled 'Air Pollution May Account for 15% of COVID-19 Deaths Worldwide, Says New Study', News Click, 28 October 2020, similar observations have been made.

It is stated that Prof. Jos Lelieveld of Max Planck Institute of Chemistry, Mainz, Germany, and a corresponding author of the study said "Since the numbers of deaths from COVID-19 are increasing all the time, it's not possible to give exact or final numbers of COVID-19 deaths per country that can be attributed to air pollution. However, as an example, in the UK there have been over 44,000 coronavirus deaths and we estimate that the fraction attributable to air pollution is 14%, meaning that more than 6,100 deaths could be attributed to air pollution. In the USA, more than 220,000 COVID deaths with a fraction of 18% yields about 40,000 deaths attributable to air pollution."

On the mechanism of how PM_{2.5} can aggravate the respiratory disease, Prof. Thomas Munzel of Gutenberg University, Germany, said "When people inhale polluted air, the very small polluting particles, the PM_{2.5}, migrate from the lungs to the blood and blood vessels, causing inflammation and severe oxidative stress, which is an imbalance between free radicals and oxidants in the body that normally repair damage to cells. This causes damage to the inner lining of arteries, the endothelium, and leads to the narrowing and stiffening of the arteries. The COVID-19 virus also enters the body via the lungs, causing similar damage to blood vessels, and it is now considered to be an endothelial disease."

“If both long-term exposure to air pollution and infection with the COVID-19 virus come together then we have an additive adverse effect on health, particularly with respect to the heart and blood vessels, which leads to greater vulnerability and less resilience to COVID-19. If you already have heart disease, then air pollution and coronavirus infection will cause trouble that can lead to heart attacks, heart failure and stroke,” he further added. **The study also shows a country wide estimation of COVID-19 deaths attributable to long term air pollution exposure. According to it, Czech Republic has a share of 29%, China 26%, Germany 22%, Italy 15% and so on. New Zealand has a very low share of 1%.**

Extending this analogy to Indian conditions, it is possible to infer that deaths attributable to pollution in India may not be less than 15%.”

xxx

xxx

xxx

19. In ‘State of Global Air 2020’ report released by the Health Effects Institute and the Institute for Health Metrics and Evaluation’s Global Burden of Disease Project, it is stated that:

“Extensive evidence links exposure to air pollution with higher rates of respiratory and cardiovascular diseases including lower-respiratory infections. **Could air pollution also increase a person’s risk of developing a COVID-19 respiratory infection or suffering its most severe complications?**

There is reason to believe it could SARS-CoV-2, the corona virus that causes COVID-19, is a respiratory virus that can affect the lungs, blood vessels, and many other parts of the body. Exposure to air pollution has been shown to affect the body’s immune defense, making an individual more susceptible to respiratory and other infections. In addition, many of the health conditions that have been associated with increased vulnerability to COVID-19-such as diabetes, cardiovascular disease, and chronic obstructive lung diseases-are also caused by long-term exposure to air pollution.

What we learned from the SARS-CoV-1 outbreak in 2002-2004 offers some insight into the interaction between air pollution and the effects of COVID-19. Several studies reported an association between higher air pollution concentrations and higher than expected death rates from SARS-CoV-1 handful of early studies of COVID-19 appear to suggest that areas with higher air pollution concentrations-PM_{2.5} or NO₂ in particular-might similarly experience either higher infection rates or higher case fatality rates. Investigators around the world are hard at work trying to understand fully the linkages between COVID-19 and air pollution, and how exposure to air pollution might affect rates of COVID-19 infection, the severity of disease, or the likelihood of dying.”

xxx

xxx

xxx

Media Reports Referred

22. Following media reports have also been referred to by learned Amicus:

- i. ‘Coronavirus: Delhi health minister blames pollution, winters, festive season for rise in cases’, Scroll.in, 31 October 2020⁵
- ii. Abantika Ghosh, ‘Covid virus found on pollution particles, masks & social distancing a must, say govt experts’, ThePrint, 27 October 2020.⁶
- iii. Durgesh Nandan Jha, ‘From Record 5.9k Last Fri, City Cases Soar To 6,725’, The Times of India, 4 November 2020⁷.”

The above media reports refer to the nexus between air pollution and deaths and diseases particularly during winter and festive season with reference to the statements of the Delhi Health Minister and the Union Health Minister in support of the said statement. **There is further reference to apprehended increase of Covid cases on account of air increased pollution.**

The news item in ‘Times of India’ dated 04.11.2020 mentions that Delhi recorded 6,725 new cases of Covid-19 – its highest single-day tally – on Tuesday, taking the total number of cases to over 4,00,000 even as hospitals struggled to accommodate the critically ill patients due to paucity of ICU beds. This is leading to increased demand for the hospital beds and increased mortality figures. The increasing trend is clearly attributable to the deteriorating air pollution level.

Other Media reports and Global Trends

23. Apart from the media reports relied upon by the learned Amicus, there are other media reports to which reference may be made as follows:

- a) ASRP Mukesh, ‘Ban firecrackers or prepare for Covid disaster, warn docs’ Times of India, 30 October, 2020.⁸
- b) Science, ‘Smoky firecrackers can spread coronavirus faster: Experts, Deccan Chronical, 4 November, 2020.⁹

⁵ <https://scroll.in/latest/977303/coronavirus-delhi-health-minister-blames-pollution-winters-festive-season-for-rise-in-cases>

⁶ <https://theprint.in/health/covid-virus-found-on-pollution-particles-masks-social-distancing-a-must-say-govt-experts/531981/>

⁷ <https://timesofindia.indiatimes.com/city/delhi/Covid-19-From-record-5900-last-Friday-Delhi-cases-soar-to-6725/articleshow/79031687.cms>

⁸ <https://timesofindia.indiatimes.com/city/ranchi/ban-firecrackers-or-prepare-for-covid-disaster-warn-docs/articleshow/78941525.cms>

⁹ <https://www.deccanchronicle.com/nation/in-other-news/031120/smoky-firecrackers-can-spread-coronavirus-faster-experts.html>

- c) Cole Sullivan, 'COVID cancellations hit fireworks display companies hard' 10 News, 11.06.2020.¹⁰
- d) 'BEFORE BURNING CRACKERS LOOK AT US AND BE CONSIDERATE, SYMPATHETIC AND HUMANE' URGES COVID RECOVERED PATIENTS "DEEPAVALI DOES NOT MEAN BURNING CRACKERS FOR ENJOYMENT"- BISWAJIT MUKHERJEE 07.11.2020, PIB Kolkata.¹¹
- e) 'After falling for 7 weeks, Covid-19 cases in India rise', Times of India, 09.11.2020.¹²
- f) Stephanie Pagones, 'Coronavirus-prompted July 4th cancellations leave fireworks display companies 'on life support', FOX Business, 02.07.2020.¹³
- g) Joanna York, 'What will France's July 14 celebrations look like this year? Celebrations will still take place in France on 14 July this year, but with some differences due to the Covid-19 crisis, the Connexion, 06.11.2020.¹⁴
- h) Tim Baker, 'Coronavirus: London's New Year's Eve fireworks cancelled due to pandemic', Sky News, 18.09.2020.¹⁵
- i) Wong Shiying, 'No fireworks display at Marina Bay New Year's Eve countdown this year', the Straits Times, 05.11.2020.¹⁶

As per (a), there is a statement by Jharkhand chapter of Indian Medical Association (IMA) that smoke from firecrackers during Diwali can turn out to be fatal for Covid-19 patients. The report particularly mentions the names of the State President Dr. A.K. Singh and Dr. Pradeep Bhattacharjee. It is also further mentioned that winter dry air can aggravate breathing difficulties, especially among those suffering from lung ailments. Smoke from crackers can turn out to be recipe for disaster. Pollutants released will remain suspended in cool air for a long duration.

¹⁰ <https://www.wbir.com/article/news/health/coronavirus/covid-cancellations-hit-fireworks-display-companies-hard/51-f16191a3-fdbb-44a3-8447-de4454d761b5>

¹¹ <https://pib.gov.in/PressReleasePage.aspx?PRID=1671145>

¹² <https://timesofindia.indiatimes.com/india/after-falling-for-7-weeks-covid-19-cases-in-india-rise-again/articleshow/79119707.cms>

¹³ <https://www.foxbusiness.com/lifestyle/fireworks-displays-july-4-coronavirus>

¹⁴ <https://www.connexionfrance.com/French-news/What-will-France-s-July-14-celebrations-look-like-this-year>

¹⁵ <https://news.sky.com/story/coronavirus-londons-new-years-eve-fireworks-cancelled-due-to-pandemic-12074859>

¹⁶ https://www.straitstimes.com/singapore/no-fireworks-display-at-marina-bay-countdown-this-year?utm_medium=Social&utm_campaign=STFB&utm_source=Facebook&fbclid=IwAR1_4Gj7dYzCq-8BNdxiy1GLEgGgvC3hPTgdOsd-wa-TUyGNED4k3JpQi-o#Echobox=1604550165

The reports (b) & (e) show discussion that ban on fire crackers is imperative to prevent harm on account of Covid-19 which will be aggravated by use of fire crackers.

The media reports from (f) to (i) show that having regard to the Covid situation, fireworks display was cancelled in several other countries.”

11. The Tribunal also considered the CPCB report backed by data of incremental pollution during festivals in and around November month, attributable to the use of fire crackers. Further consideration was of the grievance that there was non-compliance by the manufacturers by using prohibited chemicals in manufacture of crackers which led to initiation of contempt proceedings by the Hon’ble Supreme Court vide order dated 03.03.2020 in *Writ Petition No. 728/2015, Arjun Gopal (supra)*. The products were not being labeled in terms of directions of the Hon’ble Supreme Court dated 10.02.2017.

Supreme Court orders dated 11.11.2020 and 13.11.2020

12. We note that vide order dated 13.11.2020 in *SLP (Civil) Diary No(s). 24650/2020, The Telangana Fire Works Dealers Association v. P. Indra Prakash & Ors.*, **the Hon’ble Supreme Court directed, by an interim order, that order of this Tribunal dated 09.11.2020 be followed** in the State of Telangana which was the State for consideration in the matter before the Hon’ble Supreme Court. Further, *SLP(Civil) Diary No(s). 24645/2020, Gautam Roy & Anr. vs. The State of West Bengal & Ors.* against order of the Calcutta High Court dated 05.11.2020 in WPA No. 1984 of 2020, *Ms. Anasua Bhattacharya vs. State of West Bengal & Ors.*, banning crackers in the State of West Bengal during Deepawali and other festivals in the month of November was dismissed vide order dated 11.11.2020.

Further consideration in Today's Proceedings

13. CPCB has filed its report dated 27.11.2020 in pursuance of order of this Tribunal dated 09.11.2020, compiling the relevant data pre-Deepawali and on Deepawali day in Delhi and in 131 other cities. The report mentions the data of noise level and air quality at certain locations. 'Overall observation' and conclusion in the report are as follows:

"Overall Observation

This year Deepawali was celebrated in mid-November, which, has unfavorable meteorological conditions for dispersal of pollutants in comparison to 2019 when the festival was in the last week of October. The surface temperature was recorded lowest, which might have attributed to more inversion condition with lowest average mixing height, which limits vertical dispersion. It was among lowest in last five years. Wind speed in both pre Diwali and Diwali day was similar. As such, impact of meteorology in air pollution levels during festival season is evident.

*As observed from real-time monitoring network (37 CAAQM stations), the hourly **average concentration of PM_{2.5} started increasing since 11 PM on 14th November, it reached peak in most of the stations at around 1 am and continued at higher levels till 5 am. The city level average calculated for PM₁₀ and PM_{2.5} concentrations on Deepawali day (14.11.2020) were 645 µg/m³ and 483 µg/m³ respectively.** Contribution of stubble burning on PM_{2.5} (Source: SAFAR, IITM) was 32% on Diwali day (14.11.2020) compared to 38% on pre Diwali day (09.11.2020).*

The contribution of stubble burning on both pre Diwali (12 % on 21.10.2019) and Diwali day (19 % on 27.10.2019) in 2019 was less. Therefore, it may be inferred that elevated PM_{2.5} concentrations in 2020 in comparison to previous year had enhanced contribution of stubble burning and same is also reflected in elevated levels of CO and NO₂.

In 2019 the PM₁₀ was increased by 70% on Diwali day compared to Pre Diwali day. PM_{2.5} was increased by 149% on Diwali day over Pre Diwali day. In 2020, on Diwali day decrease in PM₁₀ and PM_{2.5} was observed compared to Pre Diwali day by about 16% and 18%. This reduction is perhaps due to about 6% reduction in contribution of stubble burning this year.

Overall, this year Deepawali has witnessed higher background levels of pollutants during pre-diwali days and further addition of particulates during night from firecrackers."

14. We have heard learned Amicus and other learned Counsel for the parties. We have also considered the report of the CPCB dated 27.11.2020 and the media reports. Learned amicus has filed following media reports:

- “1. PTI, Guwahati (2020). ‘Assam Health Minister says no restriction on firecrackers despite ban by police’, *Deccan Herald*, 10 November.
2. PTI (2020). ‘Delhi’s air quality turns ‘severe’ firecrackers add to misery’, *The Hindu*, 14 November.
3. Peeyush Khandelwal (2020). ‘Despite ban on crackers, Diwali in Noida and Ghaziabad more polluted this year’, *The Hindustan Times*, 15 November.
4. ANI (2020). ‘Despite Ban, People Burst Firecrackers in UP’s Ghaziabad to celebrate Diwali’, *Business World*, 30 November.
5. PTI (2020). ‘Delhi Police receives over 2,000 PCR calls about bursting of crackers on Diwali night’, *The Tribune*, 15 November.
6. PTI (2020). ‘Firecrackers heard across Delhi on Diwali night despite ban’, *The Hindu*, 15 November.
7. Agence France – Presse (2020). ‘Toxic smog blankets Delhi after revellers ignore ban on bursting firecrackers for Diwali’, *First Post*, 16 November.”

15. Learned Amicus submitted that the media reports establish that there was blatant violation of order of this Tribunal dated 09.11.2020 at various places. This affected the air quality adversely and also added to the noise pollution to the detriment of the public health. There are other **media reports also indicating flouting of the ban imposed on use of fire crackers, thereby having deleterious effect on air quality.**¹⁷

¹⁷ (i) “Delhi Air Quality Plunges to ‘Severe’ Category, Cracker Ban Goes Up in Smoke on Diwali Despite Pandemic Fears”, News18 India dated 15.11.2020: <https://www.news18.com/news/india/delhi-air-quality-turns-severe-on-diwali-farm-fires-calm-winds-worsen-crisis-3080405.html>

(ii) “Air quality ‘very poor’ in Delhi post Deepavali”, *The Hindu* dated 28.10.2019: <https://www.thehindu.com/news/cities/Delhi/delhi-air-quality-dips-to-very-pooron-diwali/article29811526.ece> <https://www.thehindu.com/news/cities/Delhi/delhi-air-quality-dips-to-very-pooron-diwali/article29811526.ece>

(iii) “Air quality dips to ‘severe’ in Delhi post Diwali”, *The Hindustan Times*, 15.11.2020: https://m.hindustantimes.com/india-news/air-quality-dips-to-severe-in-delhi-post-diwali/story-ykHxSpaTcy2IX8YRCdPk0K_amp.html

(iv) “Air quality in Delhi further deteriorates post-Diwali; breaches emergency mark for a time”, *DownToEarth*, dated 15.11.2020: <https://www.downtoearth.org.in/news/air/air-quality-in-delhi-further-deteriorates-post-diwali-breaches-emergency-mark-for-a-time-74243>

(v) “As Delhi flouts cracker ban, air quality dips day after diwali”, *The Indian Express* dated 15.11.2020: <https://indianexpress.com/article/cities/delhi/delhi-air-quality-pollution-diwali-7051960/>

(vi) “Air quality worsens in the national capital post-diwali”, *The Economic Times* dated 15.11.2020: <https://economictimes.indiatimes.com/news/politics-and-nation/air-quality-worsens-in-the-national-capital-post-diwali/articleshow/79228838.cms?from=mdr>

16. Learned amicus further submitted that the use of fire crackers is not confined to the month of November but continues even thereafter to celebrate different occasions, including marriages, sports, etc. The Precautionary principle, thus, continues to remain relevant atleast till Covid-19 ends to avoid damage to the environment and public health. The use of crackers needs to be controlled and regulated, depending upon the air quality at the location where fire crackers are to be used. Thus, a graded response to air pollution appears to be essential, even beyond November till the Covid-19 pandemic is controlled.

17. *I.A. No. 112/2020* has been filed in *OA No. 93/2020(CZ), Dr. P.G. Najpande & Anr. vs. State of M.P. & Ors.*, by the applicant stating that inspite of order of this Tribunal, the bursting of fire crackers took place at Jabalpur, Bhopal, Indore and Gwalior. As a result, there was increase in Covid cases in Madhya Pradesh after Deepawali.

18. Learned Amicus and the counsel appearing for the applicants submitted that there is an established relation of increase of pollution due to use of fire crackers and consequential increase of Covid cases. Thus, it was submitted that use of fire crackers be not allowed so long as Covid continues in the interest of public health. Alternatively, such use may be

(vii) "Firecrackers' ban flouted in Capital", The Pioneer dated 16.11.2020: <https://www.dailypioneer.com/2020/page1/firecrackers----ban-flouted-in-capital.html#:~:text=The%20National%20Green%20Tribunal%20>

(viii) "Pollution levels severe in Delhi as cracker ban is flouted", mint dated 15.11.2020: <https://www.livemint.com/news/india/pollution-levels-severe-in-delhi-as-cracker-ban-flouted-11605417950168.html>

(ix) "In a week, 40 flout firecracker ban in Ghaziabad, arrested", Times of India dated 16.11.2020: https://m.timesofindia.com/city/ghaziabad/in-a-week-40-flout-firecracker-ban-in-ghaziabad-arrested/amp_articleshow/79239001.cms

(x) "11 arrested in Chandigarh for flouting ban on firecrackers, UT administration had banned the sale and use of firecrackers this year", The Tribune dated 15.11.2020: <https://www.tribuneindia.com/news/chandigarh/11-arrested-in-chandigarh-for-flouting-ban-on-firecrackers-170716>

(xi) "850 held for flouting curbs, 1.2k cases filed", The Hindustan Times dated 16.11.2020: <https://www.hindustantimes.com/cities/1206-case-registered-for-bursting-crackers-on-diwali-850-people-held/story-2lQKkR1Ms66kuHCb7LE93M.html>

permitted only where the air quality is 'moderate' and below where adverse impact on public health is comparatively lesser. **If the air quality is 'poor' and above, it has been held by the Hon'ble Supreme Court in the table quoted in para 4 above that there is danger of heart diseases, respiratory illness and other serious health impact** even before Covid. Covid is going to further aggravate the situation and therefore atleast in areas where air quality is 'poor' and above, no bursting of fire crackers should be permitted in view of 'Precautionary' principle, to be statutorily enforced by this Tribunal under Section 20 read with section 15 of the National Green Tribunal Act, 2010. It was further submitted that in view of the large-scale violation of the directions of this Tribunal, there should be further directions for meaningful enforcement by the authorities by using coercive methods, including recovery of compensation. There should also be a mechanism to compensate individual victims if such victims come forward with evidence of harm suffered. If no individual victim comes forward, the compensation amount should be utilized for restoration of the environment and to enforce the rule of law. This requires availability of air quality data and designated nodal agencies for enforcement.

Conclusion and Directions

19. We have given due consideration to the above submissions. Only opposition to this submission is on behalf of the fire crackers manufacturers association on the ground that once license is granted, there can be no restriction on right to carry on business even if it results in damage to the environment and public health.

20. As already laid down by the Hon'ble Supreme Court, discussed in the order of this Tribunal dated 09.11.2020, the laid down air quality and noise level norms under the Air (Prevention and Control of Pollution) Act,

1981 and noise level under the Environment (Protection) Act, 1986 have to be maintained to give effect to the principle of Sustainable Development of which Precautionary principle is a part. Since mere passing of order does not ensure compliance, necessary coercive measures have to be taken. Even if there are other sources of pollution and meteorological conditions contributing to the air pollution, it does not justify ignoring acknowledged pollution by bursting of fire crackers adding to the air and noise pollution, beyond statutory norms. Right to business is not absolute. There is no right to violate air quality and noise level norms. This being a crime under the law of the land cannot be a right. Exceeding of the norms, adversely affect the health and cannot be allowed. Nobody has a right to carry on business at the cost of health of others. All licenses already given or which may be given are inherently subject to overriding requirement of preventing damage to the environment and the public health.

21. We have already quoted the air quality norms. We may also note the standards of noise level, prescribed under Rule 3 read with the Schedule to the Noise Pollution (Regulation & Control) Rules, 2000 (Noise Control Rules) as follows:

“SCHEDULE
(see rule 3(l) and 4(l))

Ambient Air Quality Standards in respect of Noise

Area Code	Category of Area/Zone	Limits in dB(A) Leq *	
		Day Time	Night Time
(A)	Industrial area	75	70
(B)	Commercial area	65	55
(C)	Residential area	55	45
(D)	Silence Zone	50	40

Note:-

- 1. Day time shall mean from 6.00 a.m. to 10.00 p.m.*
- 2. Night time shall mean from 10.00 p.m. to 6.00 a.m.*

3. *Mixed categories of areas may be declared as one of the four above mentioned categories by the competent authority.*

**dB(A) Leq denotes the time weighted average of the level of sound in decibels on scale A which is relatable to human hearing.*

A "decibel" is a unit in which noise is measured.

"A", in dB(A) Leq, denotes the frequency weighting in the measurement of noise and corresponds to frequency response characteristics of the human ear.

Leq : It is an energy mean of the noise level, over a specified period."

22. As per the Noise Control rules, the responsibility for enforcement of noise pollution control measures is of the 'authority', which includes authorized officers, District Magistrates, Police Commissioner or any officer not below the rank of Deputy Superintendent of Police designated for the maintenance of air quality standards in respect of noise. There is further provision that any loudspeaker or sound producing instrument /equipment can be used **only after obtaining written permission.** Festive occasions are defined as **notified National or State functions, including the Republic Day, the Independence Day, State Day or other notified day.**

23. Remedial action against violation of noise level norms as well as air quality norms has been subject matter of judgements of the Hon'ble Supreme Court. Reference may be made to the judgment of the Hon'ble Supreme Court dealing with the noise pollution in *Re: Noise Pollution-implementation of the Laws for Restricting Use of Loudspeakers and High-Volume Producing Sound Systems*, (2005) 5 SCC 733.

24. This Tribunal in *O.A No. 519/2016, Hardeep Singh & Ors. v. SDMC & Ors.* dealt with the steps for enforcement of the directions of the Hon'ble Supreme Court on the subject of noise pollution. Noise pollution is an offence under the Noise Control Rules as also under IPC Sections 268,

285, 286, 290, 291 etc. Noticing large scale violation of Noise norms, this Tribunal required CPCB to lay down compensation regime. After expert studies, report dated 12.06.2020 was filed which was considered by this Tribunal vide order dated 11.08.2020. The compensation regime suggested by the CPCB is as follows:

“

Sr. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter		Action to be taken by designated authority
1.	Xxx	Xxx		Xxx
2.	Xxx	Xxx		Xxx
3.	Xxx	Xxx		Xxx
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon’ble Supreme Court and Clause 5A (2) and 6 (iv) ^{7- 8}			
		Residential / Commercial/ Mixed Zone	Silence Zone	
4(1)	Violation by Individual/ Household	1,000	3,000	
4(2)	Violation during Procession a. Public Rallies b. Barat during marriage Religious event	10,000	20,000	Fine to be paid by Organizer
4(3)	First Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall f. Open ground functions	20,000		Fine to be paid by Organizer and Owner of the place.
4(4)	Second Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground Function	40,000		
4(5)	More than Two Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground function	1,00,000 and action under EP Act.		Sealing of Premises

”

Note:

xxx

xxx

xxx

7. *Sound emitting fire crackers shall not be burst in silence zone or during' night time in each zone."*

8.

xxx

xxx

xxx

9. *It may be noted that imposition of fine for notification of Rule 5A (1) falls within the purview of Motor Vehicle Rules, 2019"*

25. The above recommendation was approved by the Tribunal vide order dated 11.08.2020 as follows:

*"12. We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. **The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTs."***

26. The matter was also considered in OA 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."* dealing with the control of air pollution in non-attainment cities. The direction in the above order dated 11.08.2020 in OA 519/2016, *Hardeep Singh (supra)* was reiterated.

27. **Accordingly, the above needs to be followed against violation of prohibition/restriction on bursting of crackers. Apart from the scale of compensation, applicable for noise, equal amount of compensation is liable to be paid for violation of air norms. Thus, the rate of compensation has to be double of the above scale. The word 'fine' is infact compensation. Polluter pays principle is part of environmental law not only under section 20 of the NGT Act but also has to be applied by law enforcing agency to enforce environmental norms. For second violation and more than two violations, deterrent amount in the form of double compensation will be payable for cases covered by**

Para 4(1) & 4(2) of the above table also. Further, it is clarified that 'second' violation does not mean second day. Second violation includes violation on same day or continuous violation.

The amount of compensation collected may be credited to a separate account to be called 'District Environment Compensation Fund' to be maintained by the District Magistrate.

28. Further, in above matter (OA681/2018), the issue of setting up of monitoring stations for monitoring of air quality was also considered by the Tribunal vide order dated 21.8.2020, in continuation of earlier proceedings, in the light of report of the CPCB dated 18.08.2020. The report was in compliance of order dated 20.11.2019 directing that assessed number of air monitoring stations be installed within one year i.e. till 20.11.2020 and such stations be connected to the server of the CPCB to display data on real time basis in public domain giving all the 12 notified parameters. The equipments be procured through GeM portal as per specifications of CPCB from recruited venders notified on the Gem Portal. The 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 (SAMP).

29. The Tribunal, vide order dated 21.08.2020, directed that the work at remaining monitoring stations be completed within six months, which may commence within one month and monitored by the CPCB.

30. The fact remains that there are 740 Districts in the country and above 4000 cities. It is absolutely necessary that at least at every District Headquarter in all the 740 Districts, there should be an air quality monitoring station. 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 in any case. 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 will now expire on 21.02.2021.

31. Since Pandemic is still continuing and is aggravated by the addition of pollution by fire crackers, having potential of damage to public health, invoking precautionary principle under section 15 and 20 of the NGT Act, 2010, we are satisfied that there is need to continue directions for prohibition and regulation of use of fire crackers during pandemic Covid-19, depending upon air quality with further direction to take coercive measures for non-compliance, including recovery of compensation and for redressal of claims of victims of such pollution and restoration of environment.

Directions

32. In view of above discussion, following directions are issued:

- i. There will be total ban on sale and use of all kinds of fire crackers during Covid-19 pandemic in the NCR and all cities/towns in the country **where the ambient air quality falls under the ‘poor’ and above category.**
- ii. Direction to restrict use of fire crackers in cities/towns where air quality is ‘moderate’ or below to green crackers only and for duration of not more than two hours and only for celebration of any specified festivals or permitted occasions will continue. Such festivals be specified by the States. Other than specified festivals, prior permission of the District Magistrate of the area will be required for use of crackers for limited period which will be given having regard to air quality.
- iii. During Christmas and New Year, green crackers can be used from 11:55 pm to 12:30 am only at places where air quality is ‘moderate’ or below as directed by the Hon’ble Supreme Court¹⁸.
- iv. With a view to ensure availability of air quality data, atleast one air quality monitoring station must be set up at every district headquarter at the earliest. Where no such monitoring station exists, atleast a manual monitoring station which is very easy to set up and is not costly must be installed at the earliest, using simpler procedure like GeM. This should not exceed three months in any case. This will be the responsibility of the State PCBs/PCCs from

¹⁸ (2019) 13 SCC 523 para 48.14

available funds under ‘consent mechanism’ / ‘environmental compensation’. The air quality data may be placed on the website of the District administration and also at prominent locations in the towns, in the form of AQI, PM_{2.5} and PM₁₀.

- v. We further direct that the Air Quality Monitoring Committees (AQMC) in terms of order of this Tribunal dated 08.10.2018 in OA No. 681/2018¹⁹ to coordinate with the District Magistrates.²⁰ for compliance of the above directions.
- vi. The District Magistrates in every district may take steps to ensure that banned fire crackers are not sold in terms of order of the Hon’ble Supreme Court dated 23.10.2018.²¹
- vii. The District Magistrate, on a complaint or otherwise, will recover compensation from violators of the above directions on the parameters already mentioned in Para 24 above.
- viii. Any victim of pollution, apart from other remedies, can approach the District Magistrate for compensation, by showing evidence of individual damage and the person responsible for the damage. Such claim may be dealt with by a reasoned order.

¹⁹ The said order is as follows:

“15. xxx	xxx	xxx
i. xxx	xxx	xxx
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.”		

²⁰ The District Environment Committee has been directed to be constituted by this Tribunal to prepare and execute District Environment Plan vide order dated 15.07.2019 in OA No. 710/2017, Shailesh Singh vs. Sheela Hospital & Trauma Centre, Shahjanhanpur & Ors.

²¹ Order dated 23.10.2018 (2019) 13 SCC 523

- ix. If no such claim is made for six months after collection of the compensation, the amount credited to the 'District Environment Compensation Fund' can be spent for restoration of the Environment in the District.
- x. The State PCBs/PCCs may compile data of compliance from all the Districts by 28.2.2021 and furnish the same to the CPCB by 15.3.2021. CPCB may file consolidated report in this regard in OA 681/2018 by 31.3.2021.

The applications are disposed of.

An amount of Rs. 1 lac and Rs. 25,000/- respectively may be paid by the CPCB to Shri Raj Panjwani, Senior Advocate and Ms. Shibani Ghosh, Advocate, as a token honorarium for assisting the Tribunal as Amicus.

We place on record our sincere thanks to learned Amicus for the assistance rendered.

A copy of this order be forwarded to the MoEF&CC, CPCB, Chief Secretaries and DGPs, State PCBs/PCCs and District Magistrates of all the States/UTs by e-mail for Compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

December 01, 2020
 OA No. 249/2020, OA No. 254/2020
 OA No. 255/2020 & OA No. 93/2020(CZ)
 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.
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	1-2
II	Order dated 08.10.2018	3 – 14
III	Orders in related matters	15 – 20
IV	Review of compliance status of directions for remedial action - orders dated 15.03.2019, 06.08.2019, 20.11.2019 and 21.08.2020	21-25
V	Consolidated Report of CPCB dated 05.04.2021 with regard to compliance status of directions dated 21.8.2020	26 – 27
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 – 29
VII	Current (Fifth) and final review on the subject - Analysis of the CPCB report dated 05.04.2021 for this order	30 – 55
VIII	Consideration of way forward and Directions	56 - 60

- 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

Moderately polluted (101-200)	101-250	61-90	81-180	101-168	2.1-10	81-380	401-800	1.1-2.0
Poor (201-300)	251-350	91-120	181-280	169-208	10-17	381-800	801-1200	2.1-3.0
Very poor (301-400)	351-430	121-250	281-400	209-748*	17-34	801-1600	1200-1800	3.1-3.5
Severe (401-500)	430+	250+	400+	748+*	34+	1600+	1800+	3.5+

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_6H_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 Wadhera 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.

xx

xx

xxx

22. xxx.....xxx.....xxx

- 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

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

Original Application No. 76/2021(CZ)

Dr. P. G. Najpandey

Applicant (s)

Versus

Chief Secretary & Ors.

Respondent(s)

Date of hearing: **27.10.2021**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Prabhat Yadav, Adv

For Respondent(s):

None

ORDER

1. The main issue raised in this application is remedial action against pollution by use of fire crackers, aggravating the menace of Covid-19 pandemic, posing higher danger to the lives and health of the vulnerable groups.
2. The Hon'ble Supreme Court, considering the adverse impact of crackers on air quality and adverse impact of air pollution on health, directed, vide Order dated 11.11.2016 as follows:

“We direct the Central Government to:

 - (i) *Suspend all such licenses as permit sale of fireworks, wholesale and retail, within the territory of NCR.*
 - (ii) *The suspension shall remain in force till further orders of this Court.*
 - (iii) *No such licenses shall be granted or renewed till further orders.”*
3. Thereafter, on 12.09.2017, in *Arjun Gopal v. Union of India (2017) 16 SCC 280* it was observed that instead of total prohibition, graded regulation of fire crackers was necessary, which would eventually result in prohibition. Accordingly, the earlier order was modified to restrict the temporary licenses to 50%, pending further consideration.

4. Thereafter, vide order dated 23.10.2018, in *Arjun Gopal v. Union of India*, (2019) 13 SCC 523, while banning certain categories of fire crackers and directing regulation of the remaining, it was inter-alia directed that on Diwali days or other festivals, fire crackers will be used strictly between 8 p.m. to 10 p.m. only with different timings for some other festivals. Further, the Union of India, Government of NCT of Delhi and the State Governments of NCR would permit **community fire crackers** only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. The operative part of the order is as follows:

“48. We are of the opinion that the aforesaid suggestions strike a nice balance between the two competing interests. We accept the aforesaid measures as suggested by the Union of India and direct the Union of India and other authorities concerned to implement the same with immediate effect. In view thereof, the following specific directions are issued:

48.1. The crackers with reduced emission (improved crackers) and green crackers, as mentioned in Suggestions II and III above only would be permitted to be manufactured and sold.

48.2. As a consequence, production and sale of crackers other than those mentioned in Suggestions II and III is hereby banned.

48.3. The manufacture, sale and use of joined firecrackers (series crackers or laris) is hereby banned as the same causes huge air, noise and solid waste problems.

48.4. The sale shall only be through licensed traders and it shall be ensured that these licensed traders are selling those firecrackers which are permitted by this order.

48.5. No e-commerce websites, including Flipkart, Amazon, etc., shall accept any online orders and effect online sales. Any such e-commerce companies found selling crackers online will be hauled up for contempt of court and the Court may also pass, in that eventuality, orders of monetary penalties as well.

48.6. Barium salts in the fireworks is also hereby banned.

48.7. PESO is directed to review the clinical composition of fireworks, particularly reducing Aluminium content, and shall submit its report in respect thereof within a period of two weeks from today. For undertaking this exercise, PESO would also associate FRDC.

48.8. Even those crackers which have already been produced and they do not fulfil the conditions mentioned in Suggestions II and III above will not be allowed to be sold in Delhi and NCR.

48.9. PESO will ensure fireworks with permitted chemicals only to be purchased/possessed/sold/used during Diwali and all other religious festivals, of any religion whatsoever, and other occasions like marriages, etc. It shall test and check for the presence of banned chemicals like lithium/arsenic/antimony/lead/mercury.

48.10. PESO will ensure suspension of the licences of manufacturers of such fireworks items and appropriate disposal of such stock.

48.11. PESO will ensure that only those crackers whose decibel (sound) level are within the limits are allowed in the market and will ensure to take action by suspending the licences of the manufacturers on such violations and disposal of such lots. To add to it, as mentioned in the order dated 12-9-2017, the directions issued and restrictions imposed in the order passed by this Court on 18-7-2005 in Noise Pollution shall continue to be in force.

48.12. Directions 4 to 9 and 11 contained in the order dated 12-9-2017 shall continue to operate and are reiterated again.

48.13. Extensive public awareness campaigns shall be taken up by the Central Government/State Governments /Schools/ Colleges informing the public about the harmful effects of firecrackers.

48.14. On Diwali days or on any other festivals like Gurupurab, etc., when such fireworks generally take place, it would strictly be from 8.00 p.m. till 10.00 p.m. only. On Christmas eve and New Year's eve, when such fireworks start around midnight i.e. 12.00 a.m., it would be from 11.55 p.m. till 12.30 a.m. only.

48.15. The Union of India, Government of NCT of Delhi and the State Governments of NCR would permit community fire cracking only (for Diwali and other festivals, etc. as mentioned above), wherever it can be done. For this purpose, particular area/fields would be pre-identified and predesignated by the authorities concerned. This exercise shall be completed within a period of one week from today so that the public at large is informed about the designated places one week before Diwali. The areas designated now for the purpose of Diwali shall be valid for community fire cracking on other occasions/festivals as well, as mentioned above. Even for marriages and other occasions, sale of improved crackers and green crackers is only permitted. Insofar as other States are concerned, an endeavour shall be made by them also to explore the feasibility of community fire cracking. However, it is made clear that Direction 48.14 pertaining to the duration within which fireworks can take place on all such occasions would be applicable throughout India. Similarly, Direction 48.13 for extensive public awareness campaigns is also a pan India direction.

48.16. All the official respondents, and particularly the police, shall ensure that fireworks take place only during the designated time and at designated places, as mentioned above. They shall also ensure that there is no sale of banned firecrackers. In case any violation is found, the Station House Officer (SHO) of the police station of the area concerned shall be held personally liable for such violation and this would amount to committing contempt of the Court, for which such SHO(s) would be proceeded against.

48.17. CPCB and respective State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs) of the States and Union Territories shall carry out short term monitoring in their cities for 14 days (commencing from 7 days prior to Diwali and ending 7 days after Diwali) for the parameters namely, aluminium, barium, iron apart from the regulatory parameters against the short-term Ambient Air Quality Criteria Values (AAQCVs) proposed by CPCB with regard to bursting of firecrackers. This will help in generation of data on pollution caused by the bursting of firecrackers and would be helpful for regulation and control quantity of aluminium, barium and iron used in the manufacture of firecrackers.

49. *One clarification needs to be given at this stage. Our discussion pertaining to the arguments based on Article 19(1)(g), Article 25 as well as the argument of loss of substantial revenue and unemployment, in cases the manufacture and sale of the firecrackers is totally banned, is prima facie and we have not given our conclusive determination. It is because of want of detailed studies on various aspects which have been mentioned and taken note of during discussion in this order. However, we also make it clear that, prima facie, we do not find much merit in these arguments for which we have given our reasons in brief.*

50. *Having regard to the overall circumstances, we have decided that, for the time being, a balanced approach to tackle this problem is needed, which may take care of the concerns of both the parties and, at the same time, provide a reasonable and adequate solution. When the picture would become clearer after the requisite studies/research is undertaken, more stringent measures can be adopted in future if the situation so warrants.”*

5. While issuing the above directions, ‘Precautionary’ principle was invoked with the following observations:

“ xxx xxx xxx

37 *The aforesaid findings are sufficient to negate the arguments of the opposite side that there is absence of scientific study about the adverse effect of firecrackers during Diwali. In environmental law, “precautionary principle” is one of the well-recognised principles which is followed to save the environment. It is rightly argued by the petitioners that this principle does not need exact studies/material. The very word “precautionary” indicates that such a measure is taken by way of precaution which can be resorted to even in the absence of definite studies. In Vellore Citizens' Welfare Forum [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647], this Court explained the principle in the following manner: (SCC pp. 658 & 660, paras 11 & 14-16)*

11. xxx xxx xxx

xxx xxx xxx

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

xxx

xxx

xxx

38. The precautionary principle accepted in the aforesaid judgment was further elaborated in A.P. Pollution Control Board case [A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718] as under: (SCC pp. 732-34, paras 31-35)

“31. The “uncertainty” of scientific proof and its changing frontiers from time to time has led to great changes in environmental concepts during the period between the Stockholm Conference of 1972 and the Rio Conference of 1992. In Vellore Citizens' Welfare Forum v. Union of India [Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647] a three-Judge Bench of this Court referred to these changes, to the “precautionary principle” and the new concept of “burden of proof” in environmental matters. Kuldip Singh, J. after referring to the principles evolved in various international conferences and to the concept of “sustainable development”, stated that the precautionary principle, the polluter pays principle and the special concept of onus of proof have now emerged and govern the law in our country too, as is clear from Articles 47, 48-A and 51-A(g) of our Constitution and that, in fact, in the various environmental statutes, such as the Water Act, 1974 and other statutes, including the Environment

(Protection) Act, 1986, these concepts are already implied. The learned Judge declared that these principles have now become part of our law.

xxx xxx xxx

33. A basic shift in the approach to environmental protection occurred initially between 1972 and 1982. Earlier, the concept was based on the “assimilative capacity” rule as revealed from Principle 6 of the Stockholm Declaration of the U.N. Conference on Human Environment, 1972. The said principle assumed that science could provide policy-makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm. But in the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the “precautionary principle”

xxx xxx xxx

34.xxx xxx xxx

‘There is nothing to prevent decision-makers from assessing the record and concluding that there is inadequate information on which to reach a determination. If it is not possible to make a decision with “some” confidence, then it makes sense to err on the side of caution and prevent activities that may cause serious or irreversible harm. An informed decision can be made at a later stage when additional data is available or resources permit further research. To ensure that greater caution is taken in environmental management, implementation of the

principle through judicial and legislative means is necessary.'

xxx

xxx

xxx

44. Applying the aforesaid principle, in the first blush it may appear that the aforesaid argument has substantial force in it. However, that would be only one side of the picture as there are two contra-arguments which are sufficient to take the sheen out of the aforesaid plea. First aspect is that the argument of economic hardship is pitched against right to health and life. When the Court is called upon to protect the right to life, economic effect of a particular measure for the protection of such right to health will have to give way to this fundamental right. Second factor, which is equally important, is that the economic loss to the State is pitched against the economic loss in the form of cost of treatment for treating the ailments with which people suffer as a result of burning of these crackers. Health hazards in the form of various diseases that are the direct result of burning of crackers have already been noted above. It leads to asthma, coughing, bronchitis, retarded nervous system breakdown and even cognitive impairment. Some of the diseases continue on a prolonged basis. Some of these which are caused because of high level of PM_{2.5} are even irreversible. In such cases, patients may have to continue to get the medical treatment for much longer period and even for life. Though there are no statistics as to what would be the cost for treating such diseases which are as a direct consequence of fireworks on these occasions like Diwali, it can safely be said that this may also be substantial. It may be more than the revenue which is generated from the manufacturers of the crackers.

However, we say no more for want of precise statistical data in this behalf.”

6. The effect of air pollution, aggravated by use of fire crackers on pandemic Covid-19 was considered by the Principal Bench of this Tribunal in O.A. No. 249 of 2020 and vide order dated 09.11.2020, it was observed as follows:

*“14. Shri Panjwani referred to the articles referred to above during hearing. In ‘A. Pozzer et al, ‘Regional and global contributions of air pollution to risk of death from COVID-19’ Cardiovascular Research, which is an article published by the **European Society of Cardiology, revised on 03.10.2020**, a study has been conducted about the nexus of Covid-19 and air pollution using relevant data and attributable fraction. It is opined that both **the air pollutant PM_{2.5} and the SARS-CoV-2 virus enter the lungs via the bronchial system (portal organ), with potential systemic health impacts through the blood circulation. Both PM_{2.5} and SARS-CoV-2 cause vascular endothelial dysfunction, oxidative stress, inflammatory responses, thrombosis, and an increase in immune cells. The SARSCoV-2 infection facilitates the induction of endothelial inflammation in several organs as a direct consequence of viral cytotoxic effects and the host inflammatory response, which can aggravate pre-existing chronic respiratory and vascular (coronary) dysfunction, and cause lung injury by alveolar damage, as well as stroke and myocardial infarction by inducing plaque rupture. Potential common pathophysiological mechanisms of increased risk thus relate to endothelial injury and pathways that regulate immune function. Further, there are strong indications of increased susceptibility to viral infections from exposure to air pollution.***

*Lung injuries, including the life-threatening acute respiratory distress syndrome and respiratory failure, as well as acute coronary syndrome, arrhythmia, myocarditis, and heart failure, were shown to be clinically dominant, leading to critical complications of COVID-19. **Recent studies in China, the USA, as well as Europe indicate that patients with cardiovascular risk factors or established cardiovascular disease and other comorbid conditions are predisposed to myocardial injury during the course of COVID19. From the available information, it thus follows that air pollution-induced inflammation leads to greater vulnerability and less resiliency, and the pre-conditions increase the host vulnerability. Air pollution causes adverse events through***

myocardial infarction and stroke, and it is an additional factor capable of increasing blood pressure, while there is emerging evidence for a link with type 2 diabetes and a possible contribution to obesity and enhanced insulin resistance. Bronchopulmonary and cardiovascular preconditions, including hypertension, diabetes, coronary artery disease, cardiomyopathy, asthma, COPD, and acute lower respiratory illness, all negatively influenced by air pollution, lead to a substantially higher mortality risk in COVID-19. Furthermore, it seems likely that fine particulates prolong the atmospheric lifetime of infectious viruses, thus favouring transmission. It is possible that future research will reveal additional pathways that mediate the relationship between air pollution and the risk of death from COVID-19.

15. In article by Aparna Banerjee titled **'After studies, it's clear that air pollution contributes to Covid mortality: ICMR'** Mint, 27 October 2020', it is mentioned that the **ICMR studies have proved that long-term exposure to air pollution has been linked to an increased risk of dying from Covid-19. It is further stated that there have been studies from Europe and US, where they have looked at polluted areas and have compared mortality during lockdown and correlation with pollution. "It is found that pollution is contributing to mortality in COVID, that's well established by studies," said Dr. Balram Bhargava, DG ICMR, in a health ministry briefing today.**

According to a study, published in Cardiovascular Research, scientists estimated that about 15% of deaths worldwide from COVID-19 could be attributed to long-term exposure to air pollution. In Europe the proportion was about 19%, in North America it was 17%, and in East Asia about 27%.

The study further mentions that the Air Quality Index (AQI) (as on 04.11.2020) was recorded at 346 in Rohini, 329 in RK Puram, 377 in Anand Vihar, and 363 in Mundka, all four in the 'very poor' category, as per Central Pollution Control Board (CPCB) data. In an attempt to curb the increasing air pollution in the national capital, the Delhi government recently launched the 'Red Light On, Gaadi Off' campaign as part of its 'Yuddh Pradushan Ke Viruddh' (War Against Pollution) initiative. Along with this, Delhi Environment Minister Gopal Rai had also announced the launch of a campaign starting on Monday to include the citizens of the capital in raising awareness on air pollution.

16. In article by Sandipan Talukdar titled **‘Air Pollution May Account for 15% of COVID-19 Deaths Worldwide, Says New Study’**, News Click, 28 October 2020, similar observations have been made.

It is stated that Prof. Jos Lelieveld of Max Planck Institute of Chemistry, Mainz, Germany, and a corresponding author of the study said “Since the numbers of deaths from COVID-19 are increasing all the time, it’s not possible to give exact or final numbers of COVID-19 deaths per country that can be attributed to air pollution. However, as an example, in the UK there have been over 44,000 coronavirus deaths and we estimate that the fraction attributable to air pollution is 14%, meaning that more than 6,100 deaths could be attributed to air pollution. In the USA, more than 220,000 COVID deaths with a fraction of 18% yields about 40,000 deaths attributable to air pollution.”

On the mechanism of how PM_{2.5} can aggravate the respiratory disease, Prof. Thomas Munzel of Gutenberg University, Germany, said “When people inhale polluted air, the very small polluting particles, the PM_{2.5}, migrate from the lungs to the blood and blood vessels, causing inflammation and severe oxidative stress, which is an imbalance between free radicals and oxidants in the body that normally repair damage to cells. This causes damage to the inner lining of arteries, the endothelium, and leads to the narrowing and stiffening of the arteries. The COVID-19 virus also enters the body via the lungs, causing similar damage to blood vessels, and it is now considered to be an endothelial disease.”

“If both long-term exposure to air pollution and infection with the COVID-19 virus come together then we have an additive adverse effect on health, particularly with respect to the heart and blood vessels, which leads to greater vulnerability and less resilience to COVID-19. If you already have heart disease, then air pollution and coronavirus infection will cause trouble that can lead to heart attacks, heart failure and stroke,” he further added. **The study also shows a country wide estimation of COVID-19 deaths attributable to long term air pollution exposure. According to it, Czech Republic has a share of 29%, China 26%, Germany 22%, Italy 15% and so on. New Zealand has a very low share of 1%.**

Extending this analogy to Indian conditions, it is possible to infer that deaths attributable to pollution in India may not be less than 15%.”

xxx

xxx

xxx

19. In ‘State of Global Air 2020’ report released by the Health Effects Institute and the Institute for Health Metrics and Evaluation’s Global Burden of Disease Project, it is stated that:

“Extensive evidence links exposure to air pollution with higher rates of respiratory and cardiovascular diseases including lower-

respiratory infections. Could air pollution also increase a person's risk of developing a COVID-19 respiratory infection or suffering its most severe complications?

There is reason to believe it could SARS-CoV-2, the corona virus that causes COVID-19, is a respiratory virus that can affect the lungs, blood vessels, and many other parts of the body. Exposure to air pollution has been shown to affect the body's immune defense, making an individual more susceptible to respiratory and other infections. In addition, many of the health conditions that have been associated with increased vulnerability to COVID-19-such as diabetes, cardiovascular disease, and chronic obstructive lung diseases-are also caused by long-term exposure to air pollution.

What we learned from the SARS-CoV-1 outbreak in 2002-2004 offers some insight into the interaction between air pollution and the effects of COVID-19. Several studies reported an association between higher air pollution concentrations and higher than expected death rates from SARS-CoV-1 handful of early studies of COVID-19 appear to suggest that areas with higher air pollution concentrations-PM2.5 or NO2 in particular might similarly experience either higher infection rates or higher case fatality rates. Investigators around the world are hard at work trying to understand fully the linkages between COVID19 and air pollution, and how exposure to air pollution might affect rates of COVID-19 infection, the severity of disease, or the likelihood of dying."

xxx

xxx

xxx

Media Reports Referred

22. *Following media reports have also been referred to by learned Amicus:*

- "i. 'Coronavirus: Delhi health minister blames pollution, winters, festive season for rise in cases', Scroll.in, 31 October 2020*
- ii. Abantika Ghosh, 'Covid virus found on pollution particles, masks & social distancing a must, say govt experts', ThePrint, 27 October 2020.*
- iii. Durgesh Nandan Jha, 'From Record 5.9k Last Fri, City Cases Soar To 6,725', The Times of India, 4 November, 2020."*

*The above media reports refer to the nexus between air pollution and deaths and diseases particularly during winter and festive season with reference to the statements of the Delhi Health Minister and the Union Health Minister in support of the said statement. **There is further reference to apprehended increase of Covid cases on account of air increased pollution.***

The news item in ‘Times of India’ dated 04.11.2020 mentions that Delhi recorded 6,725 new cases of Covid-19 – its highest singleday tally – on Tuesday, taking the total number of cases to over 4,00,000 even as hospitals struggled to accommodate the critically ill patients due to paucity of ICU beds. This is leading to increased demand for the hospital beds and increased mortality figures. The increasing trend is clearly attributable to the deteriorating air pollution level.

Other Media reports and Global Trends

23. Apart from the media reports relied upon by the learned Amicus, there are other media reports to which reference may be made as follows:

- a) ASRP Mukesh, ‘Ban firecrackers or prepare for Covid disaster, warn docs’ Times of India, 30 October, 2020*
- b) Science, ‘Smoky firecrackers can spread coronavirus faster: Experts, Deccan Chronical, 4 November, 2020*
- c) Cole Sullivan, ‘COVID cancellations hit fireworks display companies hard’ 10 News, 11.06.2020*
- d) ‘BEFORE BURNING CRACKERS LOOK AT US AND BE CONSIDERATE, SYMPATHETIC AND HUMANE’ URGES COVID RECOVERED PATIENTS “DEEPAVALI DOES NOT MEAN BURNING CRACKERS FOR ENJOYMENT”- BISWAJIT MUKHERJEE 07.11.2020, PIB Kolkata*
- e) ‘After falling for 7 weeks, Covid-19 cases in India rise’, Times of India, 09.11.2020.*
- f) Stephanie Pagones, ‘Coronavirus-prompted July 4th cancellations leave fireworks display companies ‘on life support’, FOX Business, 02.07.2020*
- g) Joanna York, ‘What will France's July 14 celebrations look like this year? Celebrations will still take place in France on 14 July this year, but with some differences due to the Covid-19 crisis, the Connexion, 06.11.2020*
- h) Tim Baker, ‘Coronavirus: London's New Year's Eve fireworks cancelled due to pandemic’, Sky News, 18.09.2020*
- i) Wong Shiyong, ‘No fireworks display at Marina Bay New Year's Eve countdown this year’, the Straits Times, 05.11.2020.16*

As per (a), there is a statement by Jharkhand chapter of Indian Medical Association (IMA) that smoke from firecrackers during Diwali can turn out to be fatal for Covid-19 patients. The report particularly mentions the names of the State President Dr. A.K. Singh and Dr. Pradeep Bhattacharjee. It is also further mentioned that winter dry air can aggravate breathing

difficulties, especially among those suffering from lung ailments. Smoke from crackers can turn out to be recipe for disaster. Pollutants released will remain suspended in cool air for a long duration.

The reports (b) & (e) show discussion that ban on fire crackers is imperative to prevent harm on account of Covid-19 which will be aggravated by use of fire crackers.

The media reports from (f) to (i) show that having regard to the Covid situation, fireworks display was cancelled in several other countries.”

7. Question for consideration is whether to give effect to victims of pollution and for protection of environment, any further direction is called for by this Tribunal under Section 15 read with Section 20 of the National Green Tribunal Act, 2010. The adverse effect of use of fire crackers on air quality, adding to the pollution and aggravation of covid-19 pandemic has already been discussed at length and finding recorded in the order dated 09.11.2020. Pandemic covid-19 is not yet over. The use of fire crackers is not confined to the month of November but continues even thereafter to celebrate different occasions, including marriages, sports, etc. The Precautionary principle, thus, continues to remain relevant to avoid damage to the environment and public health. The use of crackers needs to be controlled and regulated, depending upon the air quality at the location where fire crackers are to be used. Thus, a graded response to air pollution appears to be essential, even beyond November till the pandemic covid-19 is controlled.
8. The crackers create noise as well as air pollution and laid down parameters may at time stand violated. The subject of noise pollution, including that by crackers is being considered by this Tribunal in O.A No. 519/2016, *Hardeep Singh & Ors vs. SDMC & Ors*. The Tribunal has issued directions for taking steps Pan India against violation of noise pollution norms, to give effect to the judgment of the Hon'ble

Supreme Court in *Re: Noise Pollution-implementation of the Laws for Restricting Use of Loudspeakers and High-Volume Producing Sound Systems, (2005) 5 SCC 733*. The Tribunal considered the report of the CPCB with regard to the compensation to be recovered for violation of the noise norms by crackers, which is offence not only under the Noise Pollution (Regulation & Control) Rules, 2000 read with the Environment (Protection) Act, 1986, but also under IPC Sections 268, 285, 286, 290, 291 etc. The compensation regime suggested by the CPCB in its report dated 12.06.2020 is as follows:

“

Sr. No.	Violation of Noise Rules	Compensation (in Rupees) to be paid by defaulter	Action to be taken by designated authority	
1.	Xxx	Xxx	Xxx	
2.	Xxx	Xxx	Xxx	
3.	Xxx	Xxx	Xxx	
4.	Bursting of Firecrackers beyond the prescribed time limit prescribed (Hon’ble Supreme Court and Clause 5A (2) and 6 (iv)^{7- 8}			
		Residential / Commercial/ Mixed Zone Silence Zone	Silence Zone	
4(1)	Violation by Individual/ Household	1,000	3,000	
4(2)	Violation during Possession a. Public Rallies b. Barat during marriage Religious event	10,000	20,000	Fine to be paid by Organizer
4(3)	First Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall f. Open ground functions	20,000		Fine to be paid by Organizer and Owner of the place.
4(4)	Second Violation within a fixed Premises: a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground Function	40,000		
4(5)	More than Two Violation within a fixed Premises:	1,00,000 and action under EP Act.		Sealing of Premises

	<i>a. Function organized by RWA, b. Marriage Function c. Public Function d. Institution function e. Banquet Hall Open ground function</i>		

”

Note:

xxx xxx xxx

“7. Sound emitting fire crackers shall not be burst in silence zone or during' night time in each zone.”

8. xxx xxx xxx

9. It may be noted that imposition of fine for notification of Rule 5A (1) falls within the purview of Motor Vehicle Rules, 2019”

9. The above recommendation was approved by the Tribunal vide order dated 11.08.2020 as follows:

“12. We are of the view that the compensation scale laid down by the CPCB may be enforced throughout India. **The CPCB may issue appropriate statutory orders for the purpose for being complied with in all the States/UTs.**”

10. However, since the above scale of compensation takes into account only violation of noise norms, we direct that for air pollution, equal amount of compensation will be added. The amount will be credited to a separate environment fund for compensation to the victims and if there is no identifiable victim, for restoration of the environment.

11. The Tribunal in the above noted case, observed as follows:

“The Tribunal is also considering violation of noise control norms at restaurants/ hotels/motels/banquets or other venues of celebrations in OA 400/2017, Westend Green Farms Society vs. Union of India & Ors. The Tribunal issued directions in the said matter on 23.07.2020 as follows:

“ xxx xxx xxx

6. Accordingly, CPCB has filed its report dated 20.07.2020 to the effect that guidelines were finalized by the CPCB and circulated to all States/UTs on 19.03.2020. Follow up action of seeking data from all States/UTs was initiated on 23.06.2020. Data has been received from eight (08) States – Goa, Gujarat, Himachal Pradesh,

Madhya Pradesh, Meghalaya, Odisha, Punjab and Tripura out of which response of four (04) States only was in the prescribed format. The report concludes with the following remarks:

“ it is recommended that, All the States/UTs may have proper Mechanism/Guidelines for control of pollution and enforcement of environmental norms in marriage halls, banquet halls, party venues etc. along with consent management system.

.....

As per provisions of the Noise Pollution (R & C) Rules, 2000, permission may be obtained from concerned Authorities by the units, but, SPCBs/PCCs may follow up to have the information with them also to strengthen control of noise pollution at/from the units.

.....

7. In view of above, **let all the States/UTs take further steps in the matter of adopting and enforcing the CPCB guidelines to ensure** sustainable use of water, solid and liquid waste management and compliance with the statutory **environmental norms under the Water Act, 1974, the Air Act, 1981, the Environment (Protection) Act, 1986 (‘EP Act, 1986’) including the Noise Pollution (R&C) Rules, 2000**, providing for adequate parking facilities and having adequate stack heights for the DG Sets. Compliance of such norms must be overseen by the statutory regulatory authorities, including the Local Bodies, the State PCBs/PCCs and, wherever there is violation, stringent action must be taken by way of stopping the non-compliant activities, initiating prosecution and recovering compensation on “Polluter Pays” principle. This is necessary to enforce the right of citizens to clean environment, which is part of right to life.”

12. The Tribunal in O.A. No. 249 of 2020 directed as follows:

“Accordingly, we direct as follows:

- i. There will be total ban against sale or use of all kinds of fire crackers in the NCR from midnight of November, 4 9 -10, 2020 to the midnight of November 30 - December 1, 2020, to be reviewed thereafter.

- ii. *Direction (i) will also apply to all cities/towns in the country where the average of ambient air quality during November (as per available data of last year) fall under 'poor' and above category.*
 - iii. ***The cities/towns where air quality is ‘moderate’ or below, only green crackers be sold and the timings for use and bursting of crackers be restricted to two hours during festivals, like Diwali, Chatt, New Year/Christmas Eve etc., as may be specified by the concerned State. This direction is on pattern of direction of the Hon’ble Supreme Court in (2019) 13 SCC 523 which we are applying to areas moderately polluted or below air quality due to aggravated effect during Covid-19, as already noted. If nothing is specified by the State, timing will be 8 to 10 pm on Diwali and Gurupurb, 6 am to 8 am on Chatt and 11.55 pm to 12.30 am during Christmas and New year eve (which have yet to come and do not fall in November but if ban continues) and not otherwise.***
 - iv. *At other places, ban/restrictions are optional for the authorities but if there are more stringent measures under orders of the authorities, the same will prevail.*
 - v. *All States/UTs/PCBs/PCCs may initiate special drives to contain air pollution from all sources in view of potential of aggravation of Covid-19*
 - vi. *The Chief Secretaries and DGPs of all the States/UTs may issue and circulate an appropriate order in above terms with appropriate enforcement guidelines to all the District Magistrates and Superintendents of Police, PCBs/PCCs.*
 - vii. *The CPCB and the State PCBs/PCCs may regularly monitor the air quality during this period which may be uploaded on their respective websites. CPCB may compile information on the subject, including the status of compliance of this order from all the States/UTs and file a consolidated report with data compiled till filing of report, before the next date by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.*
13. As already mentioned, the Hon’ble Supreme Court considered the matter at pre-covid stage. The health impacts of pollution were noted as follows:

14. Table 1

AQI	Associated Health Impacts
Good (0-50)	Minimal impact.
Satisfactory	May cause minor breathing discomfort to sensitive

(51-100)	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.

14.The application was finally disposed of vide order dated 01st December, 2020 with the following observations:

“Since Pandemic is still continuing and is aggravated by the addition of pollution by fire crackers, having potential of damage to public health, invoking precautionary principle under section 15 and 20 of the NGT Act, 2010, we are satisfied that there is need to continue directions for prohibition and regulation of use of fire crackers during pandemic covid-19, depending upon air quality with further direction to take coercive measures for non-compliance, including recovery of compensation and for redressal of claims of victims of such pollution and restoration of environment. For this purpose, following directions are issued:

- i. There will be total ban on sale and use of all kinds of fire crackers during pandemic covid-19 in the NCR and all cities/towns in the country where the average of ambient air quality (as per available date of last year for the relevant period) fall under the ‘poor’ and above category.*
- ii. Direction to restrict use of fire crackers in cities/towns where air quality is ‘moderate’ or below to green crackers only and for duration of not more than two hours and only for celebration of any specified festival or occasion will continue. Such festivals will be specified by the States/District Magistrates. Other than specified festivals, prior permission of the District Magistrate of the area will be required for use of crackers for limited period which will be given having regard to the local conditions of impact on public health. The District Magistrate will take into account 24-hour average air*

quality with regard to PM_{2.5} and PM₁₀ on the corresponding date of the previous year. During Christmas and New Year, green crackers can be used from 11:55 pm to 12:30 am only at places where air quality is 'moderate' or below.

iii. The District Magistrate on a complaint or otherwise will assess and recover compensation from violators of the above directions on the parameters already mentioned in Para 13 above. Any victim of pollution, apart from other remedies, can approach the District Magistrate for compensation, by showing evidence of individual damage, out of the compensation fund available and if no such claim is made for six months after collection of the compensation, the amount can be spent for restoration of the environment in the District.

15. It is further reported that the matter is pending before the Hon'ble the Supreme Court and the issue involved is banning the use of certain chemicals that were dangerous & beyond safety limits in the fireworks by the manufacturers.

16.A preliminary enquiry report was submitted by the Joint Director, Central Bureau of Investigation (CBI) at Chennai and it was reported that there was barium and barium salts in the making of firecrackers in express violation of the ban imposed by the Court on the use of such chemicals.

17.It is further reported by the State Pollution Control Board that CPCB has issued the guidelines and number of directions have been issued by the Hon'ble The Supreme Court and National Green Tribunal in different matters as quoted above and since the matter on the above issues is also pending before the Hon'ble the Supreme Court and listed shortly, thus there is no need to pass any separate order in the matter.

18.Accordingly, we are of the view that the directions already issued by Hon'ble the Supreme Court of India and this Tribunal and the guidelines issued by the CPCB in this matter must be strictly complied with.

The application is finally disposed of.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

October, 27th 2021
O.A. No. 76/2021(CZ)
PU

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH
BHOPAL**

Original Application No. 31/2013 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S. Rao
(Expert Member)**

BETWEEN:

1. Ramakant Mishra
S/o R.S. Mishra,
Aged 45 Years
2. Pyarelal Deshmukh,
S/o Babulal Deshmukh
Aged 62 years
No. 1, 2 & 3 Dadaji Nagar,
Behind Raj Nagar Colony, Gram Loniya,
Karbal Tehsil , District Chhindwara, MP
3. Pavan Jain
S/o Jamunalal Jain,
Aged 54 years
4. Kailash Jain
S/o Ashok Kumar Jain,
Aged 34 years,
No. 4 & 5, Raj Nagar Colony,
Behind Civil Line Colony,
Gram Loniya, Karbal Tehsil,
District Chhindwara, MP

Versus

..... Applicants

1. Bharat Sanchar Nigam Ltd.
Through its Manager,
District Chhindwara, MP.
2. Smt. Rekha Dohle
W/o Phoollu Dohle,
Aged 35 years,
Rajnagar, Near Dadaji Dhuniwale Mandir
Gram Loniya, Karbal Tehsil,
District Chhindwara, MP.
3. Secretary,
Gram Panchayat Loniya, Tehsil Karbal,
Tehsil District Chhindwara, MP.

Counsel for Applicant :**Ms. Subhashree, Advocate****Counsel for Respondent No. 1 :****Ms. Anjum Feroz, Advocate for
Mr. Deepesh Joshi, Advocate****Counsel for Respondent No. 3 :****Mr. R.K. Shrivastav, Advocate
Mr. A. P. Khara, AAO, BSNL****Dated : May 15th, 2014****Delivered in Open Court by****Hon'ble Mr. Justice Dalip Singh, Judicial Member**

1. On the previous date it had been brought to our notice that the judgement of the Hon'ble High Court of Rajasthan dated 27.11.2012 which was taken into consideration by this Tribunal while passing the earlier order and on which certain clarifications were sought from the Respondents, is a subject matter of appeal before the Hon'ble Supreme Court.

2. The Learned Counsel for the parties submitted that the aforesaid appeal which was fixed in the month of April, 2014 has since been adjourned for taking up after the ensuing summer vacation by the Hon'ble Supreme Court. The Learned Counsel for the parties submit that since the issues raised in this application are similar to the one which is being dealt with by the Hon'ble Supreme Court on the matter arising out of the judgement of Hon'ble High Court of Rajasthan, the present application may be disposed of with the directions that the parties shall abide by the decision given by the Hon'ble Supreme Court on the issues which had been raised in the present application.

3. The Learned Counsel for the applicant submitted that in case any of the issues which have been raised in the present application are not decided by the Hon'ble Supreme Court or are left open the applicant be given liberty to approach this Tribunal by means of filing Miscellaneous Application for revival of this application.

4. The Learned Counsel for the Respondents submits that they have no objection if the aforesaid prayer is allowed and the petition is disposed as above.

5. We may clarify that in notification issued with regard to radiation from the Mobile Towers and necessity for all the service providers to comply with the directions of the Dept. of Telecommunications, Govt. of India in this behalf particularly with reference to the guidelines issued on 01.08.2013, there is yet another aspect with regard to pollution as a result of use of Diesel Generator (DG) Sets at the location of the Mobile Towers by the Service Providers for uninterrupted supply of power.

6. As far as the aforesaid issue is concerned, we are of the view that the use of DG sets is covered under Item No. 94 & 95 of Environment (Protection) Rules, 1986 and all service providers or those who have installed DG sets, are required to comply with the aforesaid requirement under the Environment (Protection) Act, 1986 and in this regard all the service providers must necessarily obtain necessary consent from the State Pollution Control Board as provided under the Rules of 1986. For the aforesaid purpose in case any of the service provider has not taken necessary permission they would be required to apply and take necessary permission within 30 days from today. The applicant would be at liberty to serve a copy of this order on the service provider and the Pollution Control Board for enforcing of the aforesaid directions.

7. With the aforesaid observations and directions this Application stands disposed of with liberty as aforesaid.

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal:
May 15th, 2014



NGT

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Appeal No. 12(T_{HC}) of 2013
And
Original Application No. 17(T_{HC}) of 2013
And
Original Application No. 32(T_{HC}) of 2013

In the Matter of :-

Market Welfare Association Vs. District Magistrate &Ors.
And
Fashion Market Welfare Association
Vs.
District Magistrate, SAS Nagar &Ors.
And
Sadhu Singh &Ors. Vs. The Chief Administrator &Ors.

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

Present: Appellant: Appearance not marked
Respondent No.4: Ms. Gurinderjit, Advocate
(In Appeal No. 12(T_{HC}) of 2013 and
O. A. No. 17(T_{HC}) of 2013)
Mr. Vikas Malhotra and Mr. M.P.
Sahay, Adv. for MoEF, Mr. R. N.
Jindal, Director
Ms. Alpana Poddar, Adv. for CPCB

	Date and Remarks	Orders of the Tribunal
	Item No. 08-10 March 11, 2015	<u>Appeal No. 12(T_{HC}) of 2013, Original Application No. 17(T_{HC}) of 2013 and Original Application No. 32(T_{HC}) of 2013</u> Learned counsel appearing for CPCB submits that after deliberation with different Authorities and concerned States they have prepared the National guidelines for ‘in-use generator sets (noise and emissions)’. Copy thereof has been placed on record. Since the guidelines have been prepared by the CPCB in exercise of their statutory powers, we direct the CPCB to put these guidelines on their website as well as direct all the States to ensure the implementation of these guidelines expeditiously and without default. In view of the above nothing survives in these cases. Consequently, Appeal No. 12(T_{HC}) of 2013, Original Application

		No. 17(T_{HC}) of 2013 and Original Application No. 32(T_{HC}) of 2013 stand disposed of while leaving the parties to bear their own costs. ,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**

**M.A. No. 284 of 2015, M.A. No. 755 of 2016, M.A. No. 756 of 2016,
M.A. No. 766 of 2016, M.A. No. 847 of 2016, M.A. No. 848 of 2016, M.A. No. 924
of 2016, M.A. No. 892 of 2016, M.A. No. 974 of 2016, M.A. No. 979 of 2016, M.A.
No. 983 of 2016, M.A. No. 984 of 2016, M.A. No. 967 of 2016, M.A. No. 986 of
2016 & M.A. No. 1050 of 2016**

In

Original Application No. 21/2014

And

M.A. No. 156 of 2016

In

Original Application No. 21/2014

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)**

And

Original Application No. 95/2014

(M.A. No. 1156/2016)

And

Original Application No. 303/2015

And

Original Application No. 181 /2013

(M.A. No. 824/2015)

And

Original Application No. 609 /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.

**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. RANJAN CHATTERJEE, EXPERT MEMBER**

**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 $431 \mu\text{g}/\text{m}^3$ in case of PM_{10} and $251 \mu\text{g}/\text{m}^3$ in the case of $\text{PM}_{2.5}$. 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 :

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
 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
 Ms. Deep Shikha Bharati, Adv. for MoEF
 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.
 Mr. Raja Chatterjee, Mr. Piyush Sachdev, Mr. Abhinandini Yadav Adv. for State of West Bengal
 Ms. Priyanka sinha and Ms. Ajita Tondon, Adv. for Jharkhand
 Mr. D. Rajeshwar Rao, Adv.
 Mr. Atul Jha, Adv. for State of Chhattisgarh
 Mr. Rajneesh Bhardwaj and Mr. Raj Kishan Gaur, Adv.
 Mr. Rajneesh Bhardwa Mr. Rahul Sharma and Mr. Gaurav Dubey advs
 Mr. Arjun Syal, Mr. Shreyan Das Adv.
 Mr. Rajkumar, Adv with Mr. Bhupender Ms.Preeti, L.A for CPCB
 Mr. Jayesh Gaurav, Adv. for JSPCB
 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
 Mr. Rakesh Sharma Mr. V. Mowli, Adv. for State of TN and TNPCB
 Mr. Gopal Singh, Mr. Rituraj Biswas, Adv. for State of Tripura
 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
 Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr. Lalit Mohan, Adv. for Delhi Development Authority
 Mr. Arjun Sawhney adv in M. a. No. 1435/2017
 Ms. S. Ghosh, Adv., Mr. Anchit Sharma, Mr. Dipankar Wadhwa, Adv.
 Mr. Apurva Kumar 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, and Ms. Prity, Adv. 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. Gautam singh and Ms.. Shibani Ghosh advs.
 Mr. Nishe Rajen Shonker and Ms. Anu K. Joy, Advs. 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 Adv. and Mr. Vinay Pal, Adv. for State of Uttar Pradesh
 Mr. Dileep Poolakkot, Adv.
 Mrs. Rani Chibber and Ms. Priyanka Sony, Advs.
 Mr. Jogy Scaria, Adv., Ms. Beena Victor, Ms. Mrianda Solaman Advs. for Kerala State Pollution Control Board
 Ms. Sumedha Dang, Adv.
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoinethiam Advs. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam and State of Uttar Pradesh
 Mr. Shivam Bajaj Adv.
 Ms. Aditi Singh Adv. for Narender Pal Singh Adv and Mr. Dinesh Jindel LO
 Dr. Sanjay Kulshreshtha, Applicant in person
 Mr. Rishabh Sharma, Advs.
 Mr. Gautam Singh, Mr. Rudreshwar Singh Advs. for BSPCB
 Mr. Gautam Singh and Mr. Soheab Alam, Advs. for State of Bihar
 Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. R.K. Maurya, Mr. Ravi Gopal Advs. for East Delhi Municipal Corporation
 Mr. Shubham Bhalla, Adv.
 Mr. Pragyan Pradip Sharma, Adv Ms. Nitesh , Advs.
 Mr. S.M. Sharma and Mr. Saurabh Rajpal, Advs. for State of Rajasthan and RSPCB
 Mr. Kamaljeet Singh AAG
 Mr. Nagiender Benipal, Adv
 Ms. Yogmaya Agnihotri, Adv., Ms. Prity, Adv.
 Dr. Abhishek Atrey, Adv.
 Ms. Priyanka Ghorawat, Adv.
 Ms. Shashi Juneja Adv.
 Mr. A.R. Takkar, with Mr. Amarjeet & Ms. Shriya Takkar, Advs. for Ambica Steel Ltd.
 Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & Mr. 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 Mr. Bhupendra Kumar, LA and Mr. Kamal Bandhu, ALO
 Ms. Puja Kalra, Adv.
 Mr. Ankur Chhibber and Mr. Nitish Negi, Advs.
 Mr. Kamaljeet Singh, AAG
 Mr. Udaibir Singh Kochar Adv
 Mr. Gautam Dhamija, Adv.
 Mr. Rishabh Sharma, Mr. Nitish NEgi, Adv. and Mr. Nawani, Assistand Engineer
 Mr. Rajneesh Bhardwaj, Mr. Raj Kishan Gaur, 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.
 Mr. Sanchar Anand and Mr. Apoorv Singhal, Advs.
 Mr. Jitendra Kumar Tripathi and Mr. simar Pal, Advs.
 Mr. Shibashish Mishra and Mr. sylona Mohapatra, Advs.
 Ms. Kritika Sachdeva and Ms. Somya Rathore, Advs.
 Mr. Naginder Benipal, Adv. for PPCB
 Mr. Pinaki Misra and Mr. Mayank Das, Advs. for NBCC
 Ms. Shyel T. and Mr. Rishabh Sharma,. Advs.
 Mr. Manoj Kumar Das adv.
 Ms. Sugandama Batra, Adv.
 Mr. Arun K. Sinha, Advs.

Mr. Rajueesh Bhardwaj and Mr. Aj Kishan Gaur, Advs.
Mr. M. Paikaray and Mr. S. Panda and Mr. A. K. Panda, Advs.
Mr. Shubham Bhalla and Ms. Roopam Rai, Advs.
Mr. Arun Monga and Ms. Divya Sharma, Advs.
Mr. Roshmani KH, Mr. Sapam Biswajit , Adv.
Mr. Ajit Sharma and Mr. Adnan Siddiqui, Advs.
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

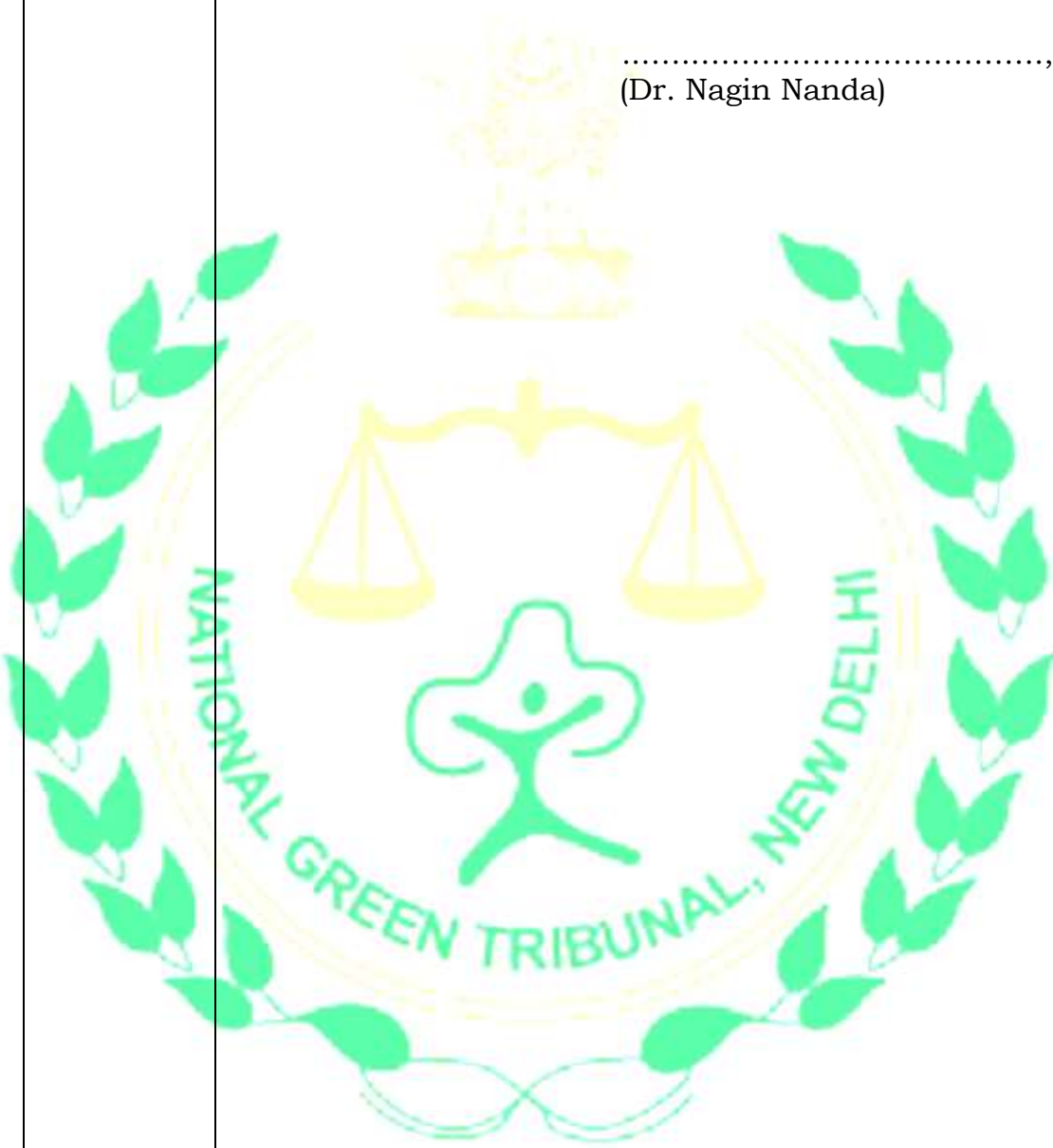
	Item Nos. 27-32 December 18, 2017	comply with all such directions. Besides, we also issue the following directions. i) There would be a complete prohibition on all kind of construction activity and transportation of construction material. The default or violation of directions would incur penalty/environmental 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. 04

Court No. 1

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

(By Video Conferencing)

Original Application No. 242/2021
(I.A. No. 61/2022)

Satish Govind

Applicant

Versus

President and Secretary, Windsor Park
Residents Welfare Association & Anr.

Respondent(s)

Date of hearing: 01.11.2022

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

Applicant: None

Respondent: Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Sunil Sharma, Advocate for Windsor Park Residents Welfare
Association

ORDER

1. Grievance in this application is against violation of air quality norms by operation of diesel generators by the Management Board of the Windsor Park Residents Welfare Association (WPRWA) at Ghaziabad, UP. It is stated that Windsor Park society has 12 towers of 10 to 23 floors, but the chimneys of all the DG sets end right above the DG sets and thereby all the exhaust emissions are released at the ground floor level. The chimneys are not extended to above the roof heights of the residential towers. Windsor Park Society has about 770 apartments. Many residents, particularly those living on the lower floors in all the towers, have been suffering for many years on account of this pollution. Many residents

have complained to the Management Board of WPRWA verbally in meetings and in the Windsor Park social media forums to take action to control such pollution, but the WPRWA has not taken any action.

2. Vide order dated 18.10.2021, the Tribunal noted the potential of DG sets for air pollution and need for action plan for controlling the same in the light of the earlier orders of this Tribunal dated 08.04.2021 in O.A. No. 681/2018, *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"*. The Tribunal accordingly directed that apart from the enforcing Graded Response Action Plane (GRAP) in the matter of functioning of DG sets. Further remedial action for upholding the air quality and noise quality standards in the operation of DG sets was required. The Tribunal accordingly directed CPCB, State PCB and District Magistrate to take further remedial action and furnish an action taken report. The operative part of the order is reproduced below:-

“1&2....xxx.....xxx.....xxx

3. *Potential for air pollution by diesel generator sets is well known. This requires effective safeguards and regulation by the statutory authorities for protection of public health and enforcement of rule of law. Air Act empowers the PCBs to take remedial action against operation of DG sets violating air quality norms. Penal code makes pollution generated thereby criminal offence and action can also be taken under section 133 Cr. PC by the Executive Magistrates, it appears that adequate remedial action is not being taken. Apart from the said provisions, Graded Response Action Plan (GRAP) has been notified by the Central Government for the NCR and approved by the Hon’ble Supreme Court, providing that the diesel generators cannot be operated when the air quality in NCR is very poor and above, normally between 15th October to 15th March. The relevant part of the GRAP is reproduced below:*

Very Poor (ambient PM_{2.5} OR PM₁₀ concentration value is between 121-250 ug/m³ or 351 ug/m³ respectively	Agency responsible/Implementing Agency
Stop use of diesel generator sets	Chairpersons Delhi Pollution Control

	Committee, State Pollution Control Boards of Haryana, Rajasthan, Uttar Pradesh

4. National Clean Air Programme (NCAP) of Government of India also envisages replacement of DG sets by gas operated generators and retrofitting of existing generators.

5. This Tribunal has also considered the issue of air pollution by generators in several matters including O.A. No. 681/2018, 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". The Tribunal directed constitution of Air Quality Monitoring Committees in all States/UTs to prepare and execute action plan for control of air pollution taking into account all pollution sources, including DG sets. In pursuance of order of this Tribunal dated 6.8.2019, statutory orders have been issued by some of the State PCBs.¹ For Ghaziabad and Noida DG sets have been banned in the manner mentioned in the orders in public domain.² Similar orders have been issued by many other PCBs.³

6. Orders passed by the Tribunal include direction for Data Grid for better planning and monitoring. Reference was also made to direction on the subject of constituting mechanism in all States similar to task force under the GRAP for NCR. The Tribunal noted that GRAPs were prepared outside NCR also by various States. Extracts from the order dated 8.4.2021 in the said matter, passed in continuation of earlier orders, are reproduced below:

“1to3..xxx.....xxx.....xxx

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.⁴:

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	May cause respiratory illness to the people on prolonged exposure. Effect may

¹ Vide order dated 25.6.2020 Haryana PCB directed that all DG sets with capacity of 500KVA must retrofit emissions control equipments having minimum specified capturing efficiency of 70%

https://hspcb.gov.in/content/Consent_Policy_Procedure/NCAP-DG-Sets_25.06.2020.pdf

² <https://www.indiatvnews.com/news/india/delhi-noida-ghaziabad-diesel-genset-ban-people-high-rises-suffer-face-problem-658249>

³ <https://www.newindianexpress.com/states/karnataka/2021/sep/27/pollution-control-devices-mandatory-for-generators-inkarnataka-2364165.html>

⁴ (2017) 1 SCC 412

(301-400)	<i>be more pronounced in people with lung and heart diseases.</i>
<i>Severe May (401-500)</i>	<i>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.</i>

Table 2

AQI Category, Pollutants and Health Breakpoints								
AQI category (Range)	PM ₁₀ 24-hr	PM _{2.5} 24-hr	NO ₂ 24-hr	O ₃ 8-hr	CO 8-hr (mg/m ³)	SO ₂ 24-hr	NH ₃ 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
Moderately polluted (101-200)	101-250	61-90	81-180	101-168	2.1-10	81-380	401-800	1.1-2.0
Poor (201-300)	251-350	91-120	181-280	169-208	10-17	381-800	801-1200	2.1-3.0
Very poor (301-400)	351-430	121-250	281-400	209-748*	17-34	801-1600	1200-1800	3.1-3.5
Severe (401-500)	430+	250+	400+	748+*	34+	1600+	1800+	3.5+

5. The Air Act stipulates stopping of any activity violating norms of air quality and taking steps for prosecution or other regulatory measures⁵ which have been read to include recovery of compensation on ‘Polluter Pays’ principle⁶. 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.)	

⁵ Section 22 read with Section 31A of the Air Act and
⁶ 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.

(1)	(2)	(3)	(4)	(5)	(6)
1	Sulphur Dioxide (SO2), mg/m³	Annual*	50	20	- Improved West and Geake - Ultraviolet fluorescence
		24 hours**	80	80	
2	Nitrogen Dioxide (NO2), mg/m³	Annual*	40	30	- Modified Jacob & Hochheiser (Na-Arsenite) - Chemiluminescence
		24 hours**	80	80	
3	Particulate Matter (size less than 10 mm) or PM ¹⁰ mg/m³	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/m³	Annual*	40	40	- Gravimetric - TOEM - Beta attenuation
		24 hours**	60	60	
5	Ozone (O3) mg/m³	8 hours **	100	100	- UV photometric - Chemiluminescence - Chemical method
		1 hour **	180	180	
6	Lead (Pb) mg/m³	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/m³	8 hours**	2	2	Non Dispersive Infra RED (NDIR) Spectroscopy
		1 hour**	4	4	
8	Ammonia (NH3) mg/m³	Annual*	100	100	- Chemiluminescence - Indophenol blue method
		24 hours**	400	400	
9	Benzene (C6H6) mg/m³	Annual*	5	5	- Gas chromatography based continuous analyser - Adsorption and desorption followed by GC analysis
10	Benzo (a) Pyrene (BaP) – particulate phase only ng/m³	Annual*	1	1	Solvent extraction followed by HPLC / GC analysis
11	Arsenic (As) ng/m³	Annual*	6	6	AAS / ICP method after sampling on EPM 2000 or equivalent filter paper
12	Nickel (Ni) ng/m³	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."

"6to8..xxx.....xxx.....xxx

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.

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.”

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 05.04.2017⁷ 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.**⁸

“11...xxx.....xxx.....xxx

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.**

⁷ 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.

⁸ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

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.
3. Burning of Municipal Solid Waste and other waste.
4. Burning of agriculture residue.
5. Bursting of crackers.
6. Vehicular Pollution
7. Diesel gen-sets
8. Dust on the roads.
9. Industrial and power house emissions including fly-ash.
10. Emissions from coal fired activities brick kilns, Hot-Mix Plants and Stone Crushers."

"14to29..xxx.....xxx.....xxx

"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 bio-marker analysis along with SA studies. While the report has stated that 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.

“31to41..xxx.....xxx.....xxx

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.

“43to46..xxx.....xxx.....xxx

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.

“48to51..xxx.....xxx.....xxx

52. As already mentioned, pollution free environment is part of right to life. Air pollution beyond norms seriously affects health and environment. Inspite 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.⁹, 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

⁹ (2017) 1 SCC 412

10

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 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]).”*

“54to57..xxx.....xxx.....xxx

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*

37 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 reports¹⁰ that air pollution is resulting in fatalities and economic losses. Remedial action is thus utmost for protecting health of the citizens.

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 crystallised 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**

¹⁰(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-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-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>)

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 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.”

7. In view of above, apart from taking action for enforcement of GRAP for stopping the functioning of Diesel Generator Sets when air quality is very poor and above, there is need for adopting safeguards in view of potential for pollution to maintain the air quality standards. DG sets have to comply with the notified Emissions and Noise standards and maintain stack heights. This is more so when meteorological conditions result in hazy situation caused inter alia by dust and bursting of crackers during winter, as noted in orders of this Tribunal dated 1.12.2020 in OA 249/20 and dated 3.12.20 in OA 283/20. There is thus need for the statutory authorities to keep constant watch on air quality and take necessary remedial action as per law.

8. Accordingly, the CPCB, State PCB and the District Magistrate, Ghaziabad may take further remedial action to ensure compliance of air quality and noise standards in the operation of that Diesel Generator Sets. The State PCB will be the nodal agency for compliance and coordination. The State PCB may also take remedial action against operation of DG sets without requisite consent. If allowed to operate, DG sets must adopt suitable safeguards consistent with the provisions of the Air Act. An action taken report may be filed within one month to the Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

3. The matter was last considered vide order dated 16.03.2022 in the light of report of the Committee dated 5.3.2022, after undertaking visit to the site. In the light of factual violations noticed, the Committee made recommendations. The Tribunal accordingly directed issue of notice to the Residents Welfare Association for compliance of principles of natural justice before passing final order in terms of the report. The Tribunal also directed the State of UP to issue a State wide policy and monitoring mechanism to deal with similar violations and sought an action taken report in the matter. The operative part of the order is reproduced below:

“xxx xxx.....xxx
3. *In pursuance of above, a report has been filed on behalf of the Committee on 05.03.2022, after undertaking visit to the site on 24.12.2021. The Committee found that the stacks of adequate height need to be installed in all DG sets, 15 years old DG sets may be discontinued. Consents are required to be taken from the State PCB. For the past violations, compensation of more than 4 Crores has been assessed against the WPRWA. Relevant extracts from the report are:*

“Action taken by the Joint Committee

In compliance of above order Regional Officer, UPPCB, Ghaziabad vide letter No. 1370/NGT-126/OA No. – 242/2021 dated 27.10.2021 requested Member Secretary to nominate member from CPCB to carry out joint inspection. CPCB has informed about nomination for joint inspection vide letter dated 10.10.2021 copy of same is annexed as Annexure-I.

Accordingly, joint inspection of project comprising following Official was carried out on dated 24.12.2021.

- 1. Shri Vipin Kumar, Additional District Magistrate (City) Ghaziabad.*
- 2. Shri Kedarnath Dash, Scientist-D, Central Pollution Control Board, New Delhi*
- 3. Shri Kishan Singh, Assistant Environment Engineer, UPPCB, Ghaziabad*
- 4. Shri Ranjeet Singh, Junior Engineer, UPPCB, Ghaziabad.*

During inspection Mr. Shishir Gupta, Manager, RWA Windsor Park was present as project representative. As per information provided by representative, the salient feature of project is as follows:

1	Plot Area:	11 acres

2	No of Towers:	12(with 10 to 23 multi-storied building)
3	Status of towers:	Residents are living in the Society since 2007. RWA has been looing after the maintenance since 2015.
4	No of Flats:	770
5	Project Commence on:	2007
6	No's of DG sets	8 (2x600 KVA, 5x 500KVA, 1x320 KVA)

1. Field Observations:

A1) DG Sets details site 1 (Near block K & L):

Sl. No.	Genset Brand Name	Date of Manufacturing	Capacity	Type approved	Stack Height	Distance from nearest Building
1	Jakson	2013	320 KVA	Yes	Inadequate	40 fit
2		March, 2010	500 KVA	Yes		from K & L block
3		July, 2008	600 KVA	Yes		30 fit
4		June, 2008	600 KVA	Yes		from K & L block

A2) DG Sets details site 2 (Near block B):

Sl. No.	Genset Brand Name	Date of Manufacturing	Capacity	Type approved	Stack Height	Distance from nearest Building
1	Jakson	April, 2007	500 KVA	Yes	Inadequate	31 fit
2		February, 2006	500 KVA	Yes		from B block
3		September, 2005	500 KVA	Yes		59 fit
4		April, 2007	500 KVA	Yes		from B block

A3) Age of generators:

Sl. No.	Age of Generators in years	No(s)
1	16	1
2	15	2
3	14	1
4	13	2
5	11	1
6	08	1

- As on date, power supply position to the society has been improved. As per log book shown to the team, generator is hardly used. It is used for testing and occasional power cut for maintenance with prior intimation.
- Generators were installed during erratic power supply situation in past.

4. Use of generator set is not required if there can be a dedicated Genset for emergency purposes.
5. This is a residential area and the area is having less traffic. Hence emission and noise pollution from other sources is hardly observed.
6. As per UPPCB, Ghaziabad record Project has not obtained CTO for operation of D.G. Sets.
7. On the inspection date there was ban on DG Set use. Hence actual compliance in the premise of complainant couldn't be monitored.
8. During inspection Manager RWA Windsor Park told that the Petitioner Shri Satish Govind was himself an office bearer (President) of RWA in year 2019.

Action taken report by Joint Committee:

1. As per GSR 371(E); dated 17.05.2002 revised vide GSR771(E); dated 11.12.13 regarding emission,

- a) **“Every manufacturer of engine or product, as the case may be, shall have valid certificate(s) of Type Approval and COP for each COP year, for all engine models being manufactured or, for all engine or product models being imported, after the effective date for the emission limits.**
- b) **“Stack height (in metres) for Genset shall be governed as per Central Pollution Control Board (CPCB) guidelines”.**

As per Emission Regulation Part IV: COINDS/26/1986-87 evolved by CPCB, the minimum height of stack with each generator set can be worked out using following formula:

$H = h + 0.2 \sqrt{KVA}$ where

H = Total height of stack in metre

h = Height of the nearest building

KVA = Total generator capacity of the set in KVA

2. CPCB Guide line for Genset use:

On 25th February, 2015, CPCB has submitted before the Hon'ble Tribunal vide appeal no. 12(CTO) of 2013 and original application No. 17(Tao) of 2013 in the matter of Market Welfare Association Vs. District Magistrate & Ors. and Fashion Market Welfare Association Vs. District Magistrate, SAS Nagar & Ors. and Sadhu Singh & Ors. Vs. The Chief Administrator & ors. that

- a) **Any diesel generator set without certified acoustic enclosure as per GSR 371(E), dated 17th May, 2002 not to be allowed to operate on or after 01.06.2015; and**

- b) Generator sets manufactured on or after 17th May, 2002 be scrapped and dismantled after its useful life, i.e. 15 years from the date of manufacturing or 50,000 hours of operator, whichever ever earlier.**

3. Recent NGT direction:

Hon'ble NGT Principal bench has passed an order vide OA No. 681; dated 06.08.2019, As per the order

- a) Evolve standards and norms for in-use DG sets below 800 KVA categories.**
- b) 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 usage.**

4. UPPCB, Ghaziabad vide letter dated 22.10.2021 sent a notice to Project proponent to obtain CTO and install stack of adequate height on DG sets as per E.P. Act, 1986.

5. UPPCB Ghaziabad vide letter dated 12.01.2022 has sent a reminder notice to Project Proponent to obtain CTO and install stack of adequate height on DG sets as per E.P. Act, 1986.

Recommendations:

- **Project shall install stack of adequate height on all DG sets as per E.(P). Act, 1986.**
- **Generator of less than 15 years old may be allowed to be used.**
- **A separate generator may be used for lift and emergency services.**
- Complainant staying at D-13, 1st Floor around 200 meter distance from the position of Gensets. His complaint regarding emission and noise pollution from the Generator sets is redundant. Moreover, this is an issue with other residents that need to be addressed.
- **Project shall obtain Consent to operate from UPPCB after ensuring compliances.**
- As per guidelines framed by Central Pollution Control Board, New Delhi for calculation of Environmental Compensation in compliance of Hon'ble NGT orders, Calculation comes out as below:

$$EC = PI \times N \times R \times S \times LF$$

*Calculation of Environmental Compensation for 01 day –
(75x1x250x1.0x1.25) = Rs. 23,437.50*

Housing society is old. Residents are living in the society since 2007. As per CPCB and Hon'ble NGT orders Environmental Compensation can imposed for 05 years:-

(365 days x 5 years x 23,437.50) = Rs. 4,27,73,437.50/-

It is mentioned to impose Environmental Compensation of Rs. 4,27,73,437.50/- (Four Crores Twenty Seven Lakhs Seventy Three Thousand Four Hundred Thirty Seven Rupees Fifty Paise only) against this society.”

4. We have given due consideration to the matter. Action needs to be taken in the light of the report and earlier orders of this Tribunal. **We consider it in the interest of justice to require the State PCB to put WPRWA to notice who may file its response, if any, within one month.**

5. We further find that the violations found in the present case are not limited to the present housing complex nor to Ghaziabad but other housing complexes in Ghaziabad and also in other cities in the State which may call for a **State wide policy and monitoring mechanism to remedy the situation after discussion of the matter at the level of State level authorities in UP in the light of mandate of law and earlier directions of this Tribunal.** There is need to monitor operation of DG sets in Residential Societies and Commercial complexes with reference to use being of “Type Approved (TA)” category, cleaner fuel, acoustic control system with required stack height and being compliant with Regulations on the subject. There is also need for mechanism for creating awareness about need for compliance and also for guidance for compliance.

6. Accordingly, we direct a joint Committee of Additional Chief Secretary, Urban Development and Additional Chief Secretary, Environment and Forest with any other stake holders including District Magistrates of the Districts where problem may be perceived to be more serious to have an interaction on the subject to consider the remedial measures for control of air and noise pollution caused by the DG sets in the light of earlier order of this Tribunal dated 18.10.2021, quoted above within one month. The Additional Chief Secretary, Environment and Forest will be the nodal agency for convening the meeting and taking follow up action.

7. Action taken report may be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

4. In pursuance of above, the welfare association has filed its response on 4.7.2022 inter-alia stating that a dispute is pending before

the Hon'ble Supreme Court about certain issues between the developer and welfare association. DG Sets were installed as there was no electricity and the developer has to pay compensation assessed by the State PCB. The report filed on behalf of the State is that it has constituted a task force for compliance against violations by setting up of DG sets throughout the State.

5. We find that the stand of the welfare association that the matter should not be dealt with by this Tribunal as some dispute between developer and welfare association is pending in the Hon'ble Supreme Court cannot be accepted. The issue before the Tribunal is compliance of environmental norms in operating DG sets which is not the issue before the Hon'ble Supreme Court. The environmental norms have to be maintained by all and any violator has to be dealt with as per law.

6. The record shows that out of 8 DG sets, 4 are more than 15 years old and two will complete 15 years by June/July 2023. Thus, these DG sets have to be replaced with cleaner fuel/retrofitted and be compliant as per specifications.

7. Accordingly, we direct that the report of the joint Committee dated 5.3.2022, referred in the order dated 16.3.2022, has to be acted upon in terms of discarding DG sets having life of more than 15 years and replaced by equipments run on cleaner fuel and compliant with norms including proper stack height. This be ensured by the State PCB and the District Magistrate. Operation of DG sets in violation of environmental norms has to be stopped and for past violations, accountability fixed, following due process of law. Compliance of G.O. dated 26.9.2022 may be monitored as per mechanism in para 13 of the said G.O. i.e. District level, AQMC and by Chief Secretary from time to time.

The application will stand disposed of accordingly.

I.A. No. 61/2022 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

November 01, 2022
Original Application No. 242/2021
(I.A. No. 61/2022)
DV

Item No.3:-**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI***(Through Video Conference)***Original Application No.153 of 2021 (SZ)**

IN THE MATTER OF

B. Subramanian

Plot #218, 4th Cross Street,
Vaithialingam Salai,
Neelankarai Village,
Chennai – 600 115.

...Applicant(s)

Versus**1) The Tamil Nadu Pollution Control Board**

Represented by its Member Secretary
No.76, Anna Salai, Guindy Industrial Estate,
Guindy, Chennai, Tamil Nadu.

2) The Commissioner of Police, Chennai City

No.132, Commissioner Office building,
EVK Sampath Road, Vepery, Periyamet,
Chennai, Tamil Nadu.

3) Satish Durai

Plot #5 & 6,
1st Cross Street, Vaithialingam Salai,
Neelankarai Village, Chennai – 600 115.

...Respondent(s)

For Applicant(s):

Mr. A. Yogeshwaran.

For Respondent(s):

Mr. S. Sai Sathya Jith for R1.
Dr. D. Shanmuganathan for R2.
M/s. Hemalatha, S. Rajasekar, T. Mahasree,
S. Naveen Kumar and Harishni for R3.

Judgment Reserved on: 23rd January 2023.**Judgment Pronounced on: 31st January 2023.**

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGMENT

Delivered by Justice Pushpa Sathyanarayana, Judicial Member

1. The applicant who has been aggrieved by the incessant noise pollution caused by the 3rd respondent who is his neighbour by the use of a 5 KVA Generator Set in the residential area, has filed the above Original Application seeking for a direction to the 1st respondent/Tamil Nadu Pollution Control Board to (i) seal the Generator Set, (ii) conduct an Ambient Noise Level Measurement during both day and night time at the applicant's house and (iii) also assess the penalty payable by the 3rd respondent for the wilful violation of the law.
2. The applicant has been a resident of the area from the year 2008 and the 3rd respondent moved there in 2014. The 3rd respondent had installed a 5 KVA Generator, 5 feet away from the applicant's property's boundary and 10 feet from the bedroom where the applicant's aged mother is using it. Even while installing the above said generator, it was informed that it will create noise pollution and nuisance, if it is not given proper acoustic enclosures. Despite the police complaint, the 3rd respondent only moved the generator 25 feet away from the applicant's premises. The noise generated from the D.G. set was very high. As the 3rd respondent refused to take necessary precautionary measures for reducing the noise level which necessitated the applicant to move this application.

- 3.** This Tribunal had earlier directed the 1st respondent who is the Tamil Nadu Pollution Control Board to conduct noise level tests in and around the area both at day and night time to ascertain the noise pollution caused on account of the usage of the above referred D.G. set and to find out whether the noise level exceeds the permissible level. If so, the Tamil Nadu Pollution Control Board was also directed to suggest a mechanism for reducing the noise level bringing it under the permissible norms.
- 4.** The 3rd respondent who is alleged to be causing the noise pollution had filed his counter stating that the application itself is filed with a malafide intention, as no other resident around the area had given such a complaint and in fact, at the request of the applicant, the 3rd respondent had moved his D.G. set 25 feet away from his premises. He has also stated that an acoustic room using soundproof and acoustic box panels has been built around the generator for minimizing the noise being emitted from the generator. The acoustic room that has been built is made of standardized materials purchased and erected from authentic dealers dealing with such instruments. The above soundproof done by the 3rd respondent has significantly reduced the noise emissions from the generator and the level is within the Ambient Noise Level Standards prescribed in the Noise Pollution (Regulations and Control) Rules, 2000.
- 5.** The Tamil Nadu Pollution Control Board has filed a report on 05.03.2022, 08.12.2022 and 05.01.2023. In the first report dated 05.03.2022, it is stated that the Ambient Noise Level Survey was conducted during the daytime when the generator was in operation and noise emission was measured and found that it exceeds the

standard prescribed in the Noise Pollution (Regulations and Control) Rules, 2000. Even during the night time, the Ambient Noise Level Survey conducted revealed that the noise emission measured exceeded the standards prescribed in the Noise Pollution (Regulations and Control) Rules, 2000. Having found that the noise level had exceeded the limits, based on the orders of the Tribunal passed earlier, the Tamil Nadu Pollution Control Board had directed the 3rd respondent to provide necessary inbuilt acoustic enclosures/room acoustic enclosures to the generator and housing the same with a proper foundation and with anti-vibration packing/pad etc. ensuring that the noise emission during operation satisfies the Ambient Noise Level Standards prescribed in the Noise Pollution (Regulations and Control) Rules, 2000.

6. The next report dated 08.12.2022 of the Tamil Nadu Pollution Control Board states that the area in question was inspected by the officials of the Tamil Nadu Pollution Control Board on 02.12.2022 and 06.12.2022 and found that the 3rd respondent had built an acoustic enclosure unit using soundproof and acoustic box panel for the generator. Subsequently, the Ambient Noise Level Survey conducted on the above referred dates revealed that the background noise level without operation of a 5 KVA generator exceeded in some locations during day and night. The noise level during the operation of a 5 KVA generator was also exceeding the Ambient Noise Level Standards prescribed by the Pollution Control Board. The report of the Tamil Nadu Pollution Control Board further states that the inbuilt acoustic enclosures/room acoustic enclosures to the generator provided by the 3rd respondent are not sufficient to meet the permissible Ambient Noise Level Standard prescribed in the Noise Pollution (Regulations and Control) Rules,

2000. Hence, he was once again directed to provide sufficient inbuilt acoustic enclosures within one month to satisfy the Ambient Noise Level Standard prescribed in the Noise Pollution (Regulations and Control) Rules, 2000 vide letter dated 07.12.2022.

- 7.** The applicant also had filed its rejoinder dated 23.01.2023 wherein, he stated that despite the above said inbuilt acoustic enclosures provided by the 3rd respondent, there has been no reduction in the noise level as had been reported by the Tamil Nadu Pollution Control Board.
- 8.** So far as the noise pollution did not create much public concern due to ignorance about the serious effect of noise on both the residents around the industry and even the workers in the industry, there were not many complaints even from the public in the community. However, noise is an important environmental pollutant like air, water and soil pollution. Sometimes, the noise level can even cause cracks in the buildings and also result in skin ailments, affecting mental peace.
- 9.** It is to be seen that noise is a technology-created problem and the same should be tackled only by technology. Noise is a destructor in any form, be it from industry or even from music. The noise interferes with the efficiency of the people and disturbs the normal activities of the individual. Therefore, the complaint of the applicant cannot be brushed aside as exposure to the exceeded decibels of noise can cause even permanent injury to the ears. As noise is an unpleasant and annoying, sound caused by the vibration of the generator, the complaint of the applicant is understandable. It is the undesirable sound that is generated from the generator set

causing sleep disturbance and affecting the health of the neighbours.

- 10.** Despite the directions given by the Tamil Nadu Pollution Control Board to provide acoustic measures to bring down the level of noise generated from a 5 KVA generator and the 3rd respondent also had carried out the same, from the report of the Pollution Control Board, it is evident that still the noise level is beyond the norms prescribed. It may also be the reason that the generator set used by the 3rd respondent is worn out and any amount of acoustic measures taken may not help the noise being generated beyond the permissible decibels.
- 11.** At this juncture, the learned counsel appearing for the 3rd respondent Ms. Harishni mentioned that the 3rd respondent gives an undertaking to install a new generator set after removing the old one which is emanating noise. It was further stated that the same would be done within 15 (Fifteen) days. While installing the new generator, the 3rd respondent is advised (i) to keep it under good maintenance and follow the guidelines of the State Pollution Control Board / Central Pollution Control Board and (ii) to install the generator set on an isolated foundation and complete with full anti-vibration packing and (iii) the generator set should be placed in the backside of the building. However, there should be no public inconvenience of any sort.
- 12.** It is also made clear that the generator owners have the responsibility of maintaining the generator set and ensuring that it does not cause any impermissible levels of air or noise pollution. Accordingly, the 3rd respondent is also advised to follow the dos

and don'ts prescribed by the Pollution Control Board to ensure proper maintenance.

13. In this regard, the Tamil Nadu Pollution Control Board is also directed to ensure that phasing out of the old generators that do not specify the laid down norms is done periodically and also ensure that the generator set has the manufacturer's name and also ensure that the generators are not operated without a certified acoustic enclosure.

14. In the light of above discussion and recording the undertaking given by the learned counsel for the 3rd respondent that the existing generator will be replaced by a new generator having acoustic enclosures and which will be installed in a place where it does not disturb the neighbours or other public, the above Original Application [O.A. No.153 of 2021 (SZ)] is disposed of.

15. The removal of the old generator should be done within 15 (Fifteen) days as had been undertaken by the learned counsel and installation of the new generator will be in compliance with the Central Pollution Control Board/State Pollution Control Board rules.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

Internet – Yes/No

All India NGT Reporter – Yes/No

**O.A. No.153/2021 (SZ),
31st January 2023. Mn.**

Item No. 08

Court No. 1

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

(BY HYBRID MODE)

Original Application No. 628/2022

D. K. Puri

Applicant

Versus

Govt. of NCT of Delhi & Ors.

Respondent(s)

Date of hearing: 19.07.2023

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

Applicant: Mr. Baldev Krishan, Adv. with Mr. D.K. Puri, Applicant

Respondent: Mr. Narender Pal Singh, Adv. for DPCC
Mr. Virendra Singh, Adv. for MCD
Mr. Nagender Deswal, Adv. for R - 5

ORDER

1. Grievance of the applicant is noise pollution caused by continuous running of generators by Reliance Mall at A Block Community Centre, Vikas Puri, Delhi. The contention of the applicant is that the mall is running 2 x 2000 KVA generators round the clock which are causing noise pollution harmful to the physical and mental health of residents of the locality including senior citizens and posing serious health problems to them by leading to irritation and loss of sleep, rest and peace.

2. The matter was taken up by this Tribunal on 30.09.2022 and a joint Committee was constituted with direction to submit a factual and action taken report.

3. In compliance of the order, the joint Committee submitted the report on **01.12.2022** as follows:

“Site visit was conducted and following are observations:

- a. M/s Reliance Mall has 3B+G+5 Floors in which commercial activities and telecom services/ data services are being carried out.*
- b. M/s Reliance Mall is in possession of 2x1875, 2x1250 kVA D.G. Sets which were found installed in basement with acoustic enclosures along with adequate stack height.*
- c. In addition to above, two additional D.G. Sets of 2080 kVA each bearing engine nos. 85004609 and 85004519 are installed on ground floor with individual acoustic enclosures in an acoustically treated room with stack height of 30.0 m each (above from ground floor) and 6 of above the roof level.*
 - i. Both D.G. Sets of 2080 kVA are intended to be used for telecom*
 - ii. As per log book, the above D.G. Sets are not in operation for last a services/ data services. six months except for maintenance purposes/ fuel refilling. Log book is annexed as Annexure III.*

Ambient Air Quality Standards in respect of Noise for different areas/zones prescribed in the Noise Pollution (Regulation and Control) Rules, 2000 published vide S.O. 123(E), dated 14.2.2000 are as follows:

Area Code	Category Area/ Zone	Limits in dB(A) Leg	
		Day Time	Night Time
(A)	Industrial area	75	70
(B)	Commercial area	65	55
(C)	Residential area	55	45
(D)	Silence Zone	50	40

Note:-

- 1. Day time shall mean from 6.00 a.m. to 10.00 p.m.*
- 2. Night time shall mean from 10.00 p.m. to 6.00 a.m.*

The Rule 7 (1) of The Noise Pollution (Regulation and Control) Rules, 2000 provides as follows:

“7 (1) A person may, if the noise level exceeds the ambient noise standards by 10 dB (A) or more given in the corresponding columns against any area/zone or, if there is a violation of any provision of these rules regarding restrictions imposed during night time, make a complaint to the authority”

Results of noise monitoring dated 14.11.2022 of both D.G. Sets of 2080 kVA are as follows:

(1). D.G. Set 1 (2080 kVA)

1	Name & Address of the Unit	M/s. Reliance Mall, A, Block, Community Centre Vikas Puri, New Delhi-110018
2	Date of Monitoring	14.11.2022
3	Year of Manufacture	After Jan. 2005 but more than 1000 kVA.
4	Time of Monitoring	16:10PM
5	Engine No.	85004519

S. No.	Location	Noise Level	Remarks
1	Ambient Noise Level at left side of the unit in Leq dB (A)	56.5	Non — Operational
2	Ambient Noise Level at left side of the unit in Leq dB (A)	57.8	DG Set was operational
3	Ambient Noise Level at left side of the unit in Leq dB (A)	56.9	Non — Operational
4	Ambient Noise Level at left side of the unit in Leq dB (A)	62.7	DG Set was operational
5	Insertion loss of the acoustic enclosure in Leq dB (A)	35.9	DG Set was operational

(II.) D.G. Set 2 (2080 kVA)

1	Name & Address of the Unit	M/s. Reliance Mall, A, Block, Community Centre Vikas Puri, New Delhi-110018
2	Date of Monitoring	14.11.2022
3	Year of Manufacture	After Jan. 2005 but more than 1000 kVA.
4	Time of Monitoring	15:50 PM
5	Engine No.	85004609

S. No.	Location	Noise Level	Remarks
1	Ambient Noise Level at left side of the unit in Leq dB (A)	56.5	Non — Operational
2	Ambient Noise Level at left side of the unit in Leq dB (A)	58.1	DG Set was operational
3	Ambient Noise Level at left side of the unit in Leq dB (A)	56.9	Non — Operational

4	Ambient Noise Level at left side of the unit in Leq dB (A)	63.3	DG Set was operational
5	Insertion loss of the acoustic enclosure in Leq dB (A)	34.1	DG Set was operational

The noise monitoring of the D.G. Sets indicate that insertion loss of acoustic enclosure is meeting the limit of 25 dB (A) as prescribed vide G.S.R. 371(E), dated 17.05.2002 and ambient level are not exceeding the ambient noise of 65 dB (A) prescribed for commercial area as the D.G. Sets under reference are installed within the boundaries of the commercial complex. Copy of relevant portion of Schedule I appended to Environment (Protection) Rules, 1986 notified vide Notification dated 17.05.2002 is annexed herewith as Annexure-IV.

Noise Monitoring results are meeting with prescribed standards as prescribed for Insertion Loss in Notification 2002 and ambient noise as prescribed under Noise Rules, 2000.”

4. 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. 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.

5. The Motor vehicle rule 120 prescribes the noise standards for automobiles at manufacturing stage and are as under:

“120. (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, Hisartesting 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.]”

6. 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. 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. Special public awareness campaigns in anticipation of festivals, events and ceremonial occasions whereat firecrackers are likely to be used, need to be carried out.

7. The matter was previously raised before the Hon'ble Supreme Court of India in the case of M.C. Mehta Vs. Union of India & Ors., Writ Petition (Civil) No. 13029 of 1985 dated 24.08.2018 and Hon'ble Apex Court dealt with the matter as follows:-

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 environment. It includes within its ambit the right of a citizen to live in a clean environment. With regard to vehicular traffic, this Court has issued a number of directions to ensure a clean environment and reduce pollution. It has been held that the right to clean environment is a fundamental rights. 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 environment. 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."

8. CPCB has issued certain guidelines and rules are framed with regard to the noise pollution. The Noise Pollution (Regulation and Control) Rules, 2000 provides as follows:

*Whereas the increasing ambient noise levels in public places from various sources, inter-alia, industrial activity, construction activity, fire crackers, sound producing instruments, generator sets, loud speakers, public address systems, music systems, vehicular horns and other mechanical devices have deleterious effects on human health and the psychological well being of the people; it is considered necessary to regulate and control noise producing and generating sources with the objective of maintaining the ambient air quality standards in respect of noise.***The Noise Pollution (Regulation and Control) Rules, 2000 provides Ambient air quality standards in respect of noise for different areas/zones as under.-**

(1) *The ambient air quality standards in respect of noise for different areas / zones shall be such as specified in the Schedule annexed to these rules.*

(2) *The State Government shall categorize the areas into industrial, commercial, residential or silence areas / zones for the purpose of implementation of noise standards for different areas.*

(3) *The State Government shall take measures for abatement of noise including noise emanating from vehicular movements, blowing of horns, bursting of sound emitting firecrackers, use of loud speakers or public address system and sound producing instruments and ensure that the existing noise levels do not exceed the ambient air quality standards specified under these rules.*

(4) *All development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise.*

(5) *An area comprising not less than 100 metres around hospitals, educational institutions and courts may be declared as silence area / zone for the purpose of these rules.*

5. Restrictions on the use of loud speakers / public address system and sound producing instruments.-

(1) *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.*

(2) *Notwithstanding any thing contained in sub-rule (2), the State Government may subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address system and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural or religious festive occasion of a limited duration not exceeding fifteen days in all during a calendar year. The concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption would be operative.*

(3) *The noise level at the boundary of the public place, where loudspeaker or public address system or any other noise source is being used shall not exceed 10 dB (A) above the ambient noise standards for the area or 75 dB (A) whichever is lower;*

(4) *The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5 dB (A) the ambient noise standards specified for the area in which it is used.*

5A. Restrictions on the use of horns, sound emitting construction equipments and bursting of fire crackers:-

(1) *No horn shall be used in silence zones or during night time in residential areas except during a public emergency.*

(2) *Sound emitting fire crackers shall not be burst in silence zone or during night time.*

(3) *Sound emitting construction equipments shall not be used or operated during night time in residential areas and silence zones.*

6. Consequences of any violation in silence zone / area.-

Whoever, in any place covered under the silence zone / area commits any of the following offence, he shall be liable for penalty under the provisions of the Act:-

(i) *whoever, plays any music or uses any sound amplifiers,*

(ii) *whoever, beats a drum or tom-tom or blows a horn either musical or pressure, or trumpet or beats or sounds any instrument, or*

(iii) *whoever, exhibits any mimetic, musical or other performances of a nature to attract crowds.*

(iv) *whoever, bursts sound emitting fire crackers; or*

(v) *whoever, uses a loud speaker or a public address system.*

7. Similarly, the ambient noise standard in respect of noise is also laid down and necessary protocol are there which is as follows:

“

Area code	Category of Area / Zone	Limits in dB(A) Leq*	
		Day	Night Time
(A)	Industrial area	75	70
(B)	Commercial area	65	55
(C)	Residential area	55	45
(D)	Silence Zone	50	40

- Note:-**
1. Day time shall mean from 6.00 a.m. to 10.00 p.m.
2. Night time shall mean from 10.00 p.m. to 6.00 a.m.

Table 1: National Ambient Air Quality Standards

Pollutant	Time Weighted Average	Concentration in Ambient Air Industrial, Residential, Rural and Other Areas	Ecologically Sensitive Area (notified by Central Government
Sulphur Dioxide (SO2), µg/m3	Annual* 24 hours**	50 80	20 80
Nitrogen Dioxide (NO2), µg/m3	Annual* 24 hours**	40 80	30 80
Particulate Matter (size less than 10 µm) or PM10 µg/m3	Annual* 24 hours**	60 100	60 100
Particulate Matter (size less than 2.5 µm) or PM2.5 µg/m3	Annual* 24 hours**	40 60	40 60
Ozone (O3) µg/m3	8 hours* 1 hour**	100 180	100 180
Lead (Pb) µg/m3	Annual* 24 hours**	0.50 1.0	0.50 1.0
Carbon Monoxide (CO) mg/m3	8 hours* 1 hour**	02 04	02 04
Ammonia (NH3) µg/m3	Annual* 24 hours**	100 400	100 400
Benzene (C6H6) µg/m3	Annual*	5	5

<i>Benzo(a)Pyrene(BaP)- particulate phase only, ng/m3</i>	<i>Annual*</i>	<i>1</i>	<i>1</i>
<i>Arsenic(As), ng/m3</i>	<i>Annual*</i>	<i>6</i>	<i>60</i>
<i>Nickel (Ni), ng/m3</i>	<i>Annual*</i>	<i>20</i>	<i>20</i>

** Annual arithmetic mean of minimum 104 measurements in a year at a particular site taken twice a week 24 hourly at uniform intervals.*

"An individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. To disturb sleep, therefore, would amount to torture which is now accepted as a violation of human right. It would be similar to a third degree method which at times is sought to be justified as a necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep."

32. Thus, under no circumstances loud-speakers or any public address system or musical system or sound amplifiers can be permitted to be used between 12.00 p.m. to 6.00 a.m. For the period between 10pm to 12 midnight the power of relaxation has been conferred only upon the State Government under Sub Rule 3 of Rule 5.

9. Noise pollution is an emerging environmental threat, prolonged exposure of which can cause annoyance, sleep disturbance, hypertension, psychiatric disorders, and also hormonal dysfunction. Among all the sources of noise pollution, the noise generated by road vehicle traffic significantly affects the quality of urban environments. Concerning the recent imposition of COVID-19 societal lockdown, the average noise levels before lockdown and during lockdown were found to be in the range of 44.85 dB to 79.57 dB and 38.55 dB to 57.79 dB, respectively, for different zones. Although a significant reduction in the noise levels was observed

during lockdown, except for commercial zone, all other monitoring stations had reported sound levels quite higher than the recommended noise limits set by the Central Pollution Control Board (CPCB) of India. Results further indicated that the impact of road traffic noise on risk of high annoyance and sleep disturbance was found to be lower during lockdown as compared to that of pre-lockdown and unlock phase. While the annoyance level in residential (86.23%), industrial (87.44%), and silence (84.47%) was higher in pre-lockdown period, it reduced to 41.25, 50.28, and 43.07% in the lockdown phase. Even the risk of sleep disturbance in the residential zone was found to reduce from 37.96% during pre-lockdown to 14.72% during lockdown.

10. The Central Pollution Control Board (CPCB) of India has recommended noise limits of 55 and 45 dB during day time and night time in residential areas; 75 and 70 dB in industrial areas; 65 and 55 dB in commercial; and 50 and 40 dB during the day and night time in silence zones. Considering the prescribed limits, the percentage of times the hourly equivalent sound level exceeds the threshold values in the pre-lockdown, lockdown, and unlock phase during day and night-time.

11. With the implementation of nationwide and state lockdown programs, there were travel restrictions causing reduction in traffic and number of honking incidents. Although essential and emergency services were operational during lockdown, there were restrictions in human mobility, social, economic, commercial and other industrial activities. Recognizing that transportation noise can adversely impact people's well-being, lifestyle, and local economy, many aspects of lockdown period can be considered further for devising new policies and guidelines towards noise pollution abatement. Although it is not feasible to impose lockdown or eliminate traffic from the cities, proper traffic management strategies

can control the negative effects of noise pollution significant reduction in noise levels can be achieved through stringent traffic reduction strategies. Several interventions such as no honking policy, substitution of motorized private transport by active transport mode such as walking and cycling for short trips, parking management, and restricting access for the noisiest vehicles can reduce noise pollution, improve road safety, provide recreational value to all the users, and improve health of the communities. While cycling and walking offer health benefits and reduce noise, emissions, and congestion, providing proper bicycle paths and walkways is equally important for the efficient mobility of cyclists and pedestrians.

12. Adoption of greener environment, the characteristics of the built environment such as view or access to green spaces in the neighborhood or having access to a quiet area can reduce annoyance and the negative response to road traffic noise. The construction of green belts around roads, vegetation, and incorporation of green spaces in the cities or even green roof installations can be considered as several measures to help attenuate noise exposure especially in the residential, silence, and industrial zones. Road infrastructure Consideration of noise-reducing pavements, traffic noise impedance walls, and quieter vehicles and installation of natural or artificial noise barriers, no-horn sign, and other traffic-calming measures can reduce noise level at high sound level zones. Implementation of such measures in residential, silence, and commercial zones can provide a livable, workable, and healthy environment for the people residing in nearby areas. **Let us give coming generation a healthier and happier environment to have a beautiful life. Do not pollute water, air, land and environment because once it is lost, it is lost forever.**

13. Contention of the learned Counsel appearing for the applicant is that there are two generator sets and these are old. The old generators are required to be replaced according to parameters.

14. In reply thereof, learned Counsel appearing for the respondent has submitted that there are no such parameters to replace old generators according to year of manufacturing and point which has been raised in this application is noise pollution and that has been examined by the joint Committee and Member of Pollution Control Board and it was found that the results are meeting the prescribed standards as provided in the rules. Thus, there are no violation.

15. We refer order of the Tribunal dated 11.03.2015 in Appeal No. 12(THC) of 2013, *Market Welfare Association Vs. District Magistrate & Ors.* considering the guidelines of CPCB for in-use generator sets, the relevant part of the guidelines and directions of the Tribunal for its acceptance are reproduced below:

“2. Phasing out old Generator sets

Phasing out of old generators as per following schedule may be enforced by concerned SPCB/PCC, area SDM and Police.

i. Any generator set having engines not engraved with manufacturer's name and date of manufacturing not to be allowed to operate on or after 01.06.2015;

ii. Any diesel generator set without certified acoustic enclosure as per GSR 371(E), dated 17th May 2002 not to be allowed to operate on or after 01.06.2015; and

iii. Generator sets manufactured on or after 17th May 2002 be scrapped and dismantled after its useful life, i.e., 15 years from the date of manufacturing or 50,000 hours of operation, which ever earlier.”

xxx xxx.....xxx

“... we direct the CPCB to put these guidelines on their website as well as direct all the States to ensure the implementation of these guidelines expeditiously and without default.”

16. We further refer the order of the Tribunal dated 01.11.2022 in OA No. 242/2021, *Satish Govind vs. President and Secretary, Windsor Park Residents Welfare Association & Anr.* relating to violation of air quality norms by diesel generator sets by the Windsor Park Society, Ghaziabad, UP, the relevant part of the order is reproduced below:

“xxx xxx.....xxx
 6. The record shows that out of 8 DG sets, 4 are more than 15 years old and two will complete 15 years by June/July 2023. Thus, these DG sets have to be replaced with cleaner fuel/retrofitted and be compliant as per specifications.

7. Accordingly, we direct that the report of the joint Committee dated 5.3.2022, referred in the order dated 16.3.2022, has to be acted upon in terms of discarding DG sets having life of more than 15 years and replaced by equipments run on cleaner fuel and compliant with norms including proper stack height. This be ensured by the State PCB and the District Magistrate. Operation of DG sets in violation of environmental norms has to be stopped and for past violations, accountability fixed, following due process of law. Compliance of G.O. dated 26.9.2022 may be monitored as per mechanism in para 13 of the said G.O. i.e. District level, AQMC and by Chief Secretary from time to time.”

17. Further, provision has been made in Section 4 of the Noise Pollution (Regulation and Control) Rules, 2000 fixing the responsibility of DPCC/State PCB and CPCB to enforce the Rules and to monitor the noise level in any area and in case of violation, necessary action be initiated against the violators.

18. Since, according to the report submitted by the joint Committee, noise parameter of DG Set is meeting the prescribed standards. Thus, no further action is required to be taken at this stage. However, we direct the DPCC to periodically monitor the parameters of noise and air pollution in the area and in case of violation, necessary action be initiated according to the Rules. Further, DPCC need to consider replacement of 15 years old DG Sets, relocation of DG Sets and using cleaner fuel to address the grievance in light of contents mentioned in Para 15.

19. With the above observations, the Original Application stands disposed of.

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

July 19, 2023
Original Application No. 628/2022
DV

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. 835/2018

In the matter of :

News item published in “Indian Express” Authored by Mallica Joshi
Titled
“All fiddle as crop stubble burns, farmers say solutions out of reach”

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

Date and Remarks	Orders of the Tribunal
Item No. 07 October 30, 2018 R	1. Proceedings have been initiated on the basis of news item dated 12.10.2018 in ‘Indian Express’ under the heading “All fiddle as crop stubble burns, farmers say solutions out of reach”. Similar news items have also appeared in the same paper on 13.10.2018 under the headings “Why Farmers Say Cheaper to Pay Fine for Crop Burning” and “As crop burning begins, city could see another episode of bad air quality” as well as on 14.10.2018 under the heading “Air quality dips to ‘poor’ again, to get worse over next 2 days, says SAFAR”. 2. The subject matter of stubble burning in States of Punjab, Haryana, Delhi and Uttar Pradesh has been a matter of serious concern on account of adverse impact on air quality and public health. This matter has been dealt with in several orders of this Tribunal including in <i>Original Application No. 666/2018 in Smt. Ganga Lalwani Vs. Union of India & Ors.</i> 3. Having regard to magnitude of the problem, we are of the view that the Chief Secretaries of the States of Punjab, Haryana, Delhi and Uttar Pradesh must monitor the situation on day-to-day basis and take appropriate

	Item No. 07 October 30, 2018 R	measures for improvement and protection of the air quality in the interest of public health and environment. Weekly reports be furnished to this Tribunal by e-mail at ngt.filing@gmail.com from 05.11.2018. 4. Copies of this order be sent by e-mail to the concerned Chief Secretaries and also forthwith delivered to the Resident Commissioners of the respective States in Delhi for communication. 5. List along with <i>Original Application No. 666/2018, Smt. Ganga Lalwani Vs. Union of India & Ors.</i> on 12.11.2018. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 30.10.2018

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

**M.A. Nos. 1568/2018, 1572/2018 & 1575/2018
In
Original Application No. 147/2016**

IN THE MATTER OF:

Aditya N. Prasad & Ors. Vs. Union of India & Ors.

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

**Present: Applicant: Mr. Aditya N. Prasad, Adv.
Respondents: Meenakshi Arora, Sr. Adv. Ashish Rana, Adv. for R-5,6&7**

	Date and Remarks	Orders of the Tribunal
	Item No. 10 November 01, 2018 dv	1. This order deals with three applications. M.A. No. 1568/2018 has been filed by the Hindustan Petroleum Corporation Limited (HPCL). M.A. No. 1572/2018 by the Bharat Petroleum Corporation Limited (BPCL) and M.A. No. 1575/2015 by the Indian Oil Corporation Limited (IOCL). 2. Vide order dated 28.09.2018, in Original Application No. 147/2016, this Tribunal considered the issue of installation of Stage-I and Stage-II Vapor Recovery Devices (VRDs) at all fuel stations, distribution centers, terminals, railway loading/unloading facilities and airports in the National Capital Territory of Delhi. Such devices are required to safeguard against Volatile Organic Compounds (VOC) released in the process of transfer of petroleum products. VOCs are highly toxic in nature resulting in serious adverse health impact. The Central Pollution Control Board (CPCB) issued directions under Section 5 of the Environment (Protection) Act, 1986 in the matter. The Ministry of Environment, Forests & Climate Change

	Item No. 10 November 01, 2018 dv	(MoEF&CC) also took the stand that safeguards against VOCs were required to be rigorously monitored. 3. Accordingly, this Tribunal directed oil companies to complete the process of installing VRDs by 31.10.2018 with regard to petrol pumps selling more than 300 KL per month and the oil companies present before the Tribunal. The remaining were to comply with the directions by 31.12.2018. 4. The directions were issued after consideration of the matter for two years. The stand of the oil companies, recorded in the said order, is as follows: <i>“5. The Indian Oil Corporation (IOC) in its affidavit has stated that it has initiated process of installing VRS systems in 2006 and the process will be completed within four months. BPCL has also taken a similar stand. HPCL claims to have installed VRS systems at 53 retail outlets in New Delhi.”</i> 5. In the application of the HPCL, extension of time has been sought upto December 2019 for installing VRS Stage-IB at Retail Outlets in NCT Delhi. Direction is also sought to provide NOC for hassle free implementation, as such devices are to be imported which require approval. 6. In the application of BPCL also, extension of time is sought upto December 2019 on similar grounds i.e. grant of approvals is a time consuming process for import of the devices. 7. In the application of IOCL, apart from extension of time for VRS Stage-II at 129 Retail Outlets in Delhi upto October 2019, extension is sought upto March 2020 for and for depots connected to Tikri Kalan and for installing VRS Stage-IA at Bijwasan terminal time is sought upto October 2021. Extension is sought upto October 2021

	Item No. 10 November 01, 2018 dv	also for Retail Outlets connected to Biswasan for VRS Stage-IB. 8. Once, it is undisputed that release of VOCs is a hazard to the public health which is to be safeguarded by installing VRDs/VRS, under the Precautionary Principle and Principle of Sustainable Development, no activity can be allowed to be carried out resulting in damage to the public health. In this view of the matter, we do not find any justification to grant further extension of time. In fact, there may be issue of recovering compensation for damage to the environment already caused by release of VOC. 9. The difficulties in procuring devices or delay in granting approvals by the authorities cannot be ground for continuing any activity affecting public health without safety standards. As at this moment we are only dealing with the applications seeking extension of time, we refrain from going into any other issue. 10. The applications are dismissed. 11. We also direct that our directions will apply to the entire National Capital Region (NCR) where the air quality is extremely bad. This modified direction for area outside NCT Delhi be complied within three months from today. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 01.11.2018

Item Nos. 11&12

(Pune Bench)

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

(By Video Conferencing)

Original Application 143/2016 (WZ)
(M.A. No. 377/2017)

Dileep Nevatia

Applicant

Versus

Union of India, Secretary MoEF& CC & Anr.

Respondent(s)

WITH

Original Application 206/2022

Raja Singh

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 19.04.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Dileep Nevatia, Applicant in Person in OA 143/2016
Mr. C P Mittal, Advocate for Applicant in OA 206/2022

Respondent(s): Mr. Siddhesh Paranjape, Advocate for Mr. Rahul Garg, Advocate
for MoEF& CC (in OA 143/2016)
Mr. Aniruddha S Kulkarni, Advocate for CPCB (in OA 143/2016)

ORDER

1. This order will deal with O.A. No. 143 of 2016 and O.A. No. 206 of 2022 as both the matters have common prayer for direction to evolve standards for Indoor Air Quality (IAQ).

2. In O.A. No. 143/2016, case set out by the applicant is Indoor Air Pollution (IAP) is as serious as Outdoor Air Pollution (OAP). IAP has potential of affecting public health. IAP causes large number of premature deaths due to pneumonia, chronic obstructive pulmonary disease (COPD), and lung cancer. Most affected groups are women and young children. Morbidities associated with IAP are respiratory illnesses, viz., acute respiratory tract infection and COPD, poor perinatal outcomes like low birth weight and still birth, cancer of nasopharynx, larynx, lung and leukemia. Sulphur dioxide and nitrogen dioxide cause wheezing and exacerbation of asthma. Nitrogen dioxide causes respiratory infections and deteriorates lung functions. Sulphur dioxide has an additional etiological role in exacerbation of COPD and cardiovascular disease. Risk of poor perinatal outcomes, viz., low birth weight and perinatal death increases from exposure to carbon monoxide. People disturbed by excessive levels of indoor noise have increased levels of stress hormones that raise their blood pressure and other risk factors, leading to disease and death. In terms of environmental burden on health, noise is second only to air pollution, according to the WHO. In spite of this factual position, no standards have been laid down for IAP by the MoEF&CC or the CPCB.

3. The application was first heard on 04.10.2016. The Tribunal issued notice to the Respondents – MoEF&CC and CPCB. Replies have been filed by the MoEF&CC and CPCB. Stand of the MoEF&CC is that indoor air quality norms have been developed by Bureau of Indian Standards (BIS) incorporated in National Building Code (2005) of India, applicable to the mega malls where large confined conditions exist. General household buildings do not have air handling system installed with them and as such are largely unregulated. Besides, noise Standards

for household tools, appliances, etc. have already been developed by BIS. MoEF&CC has notified the source specific standards for emission or discharge of environmental pollutants from certain categories of industries, operations or processes, besides the national ambient air quality standards. Guidelines may be proposed in respect of indoor air quality, instead of new standards as the control, monitoring, regulation and compliance of indoor air quality is not feasible at individual household level. Stand of the CPCB is identical. The applicant has referred to an earlier judgment of this Tribunal dated 30.08.2016 in O.A. No. 81 of 2015, Dileep B. Nivetia v. UOI & Ors., as follows:-

“30. In the present application as noted above, the applicant is seeking directions to the Authorities to take measures **to notify sulphur standards for kerosene**. Needless to say, that such measures are to be taken in accordance with law upon exercising the rule making power envisaged in the Environment (Protection) Act, 1986. Once such power is duly exercised, the issue arising out of other enactments like BIS Act become subservient to the cause of environment on account of overriding effect of Environment (Protection) Act, 1986 by virtue of Section 24 of the said Act which read as follows:-

"24.....xxxxxxxxxxxxx"

Pertinently, we are dealing with the environmental issue in the present case as per the provisions of the National Green Tribunal Act, 2010. Provisions of BIS Act can also not eclipse the provisions of National Green Tribunal Act, 2010 by virtue of Section 33 of the National Green Tribunal Act, 2010 which read as under.”

4. The matter was last considered on 05.07.2018 as follows:-

“It is submitted by Mr. Rahul Garg, learned counsel on behalf of Respondent - MoEF, that **the matter relating to indoor air pollution is under consideration of the “Committee for Indoor Air Pollution Management” constituted by office order dated 02.04.2018 and had last met on 12.04.2018.** Learned counsel for the MoEF has referred to an affidavit of the MoEF filed on 02.07.2018 setting out the various aspects for the MoEF to supply a copy of the affidavit to the Applicant.

The matter pertaining to indoor pollution though on the face of it appears trivial, is quite serious that calls for urgent attention as it has serious consequences on the health of the people living indoor, more particularly, the infants, children

and the aged persons. Concededly, there are various standards prescribed for indoor air pollution by the WHO, US and other advanced countries. We therefore, expect the Ministry to pursue with this matter vigorously to ensure that the standards prescribed are at the earliest.

List the matter on 30th August, 2018 before which the MoEF shall file a report on the progress made in the matter by way of an affidavit.”

5. The matter has been taken up today after almost four years but no progress report has been filed by the MoEF&CC, as directed.

6. **In O.A. No. 206 of 2022**, case of the applicant is that large public buildings where people gather in large number need to maintain safe and healthy air quality by appropriate regulation under provisions of the Air Act, 1981, to safeguard against air borne infection. The applicant earlier filed a writ petition before the Delhi High Court being the W.P. (C) No. 7810/2021 which was disposed of vide order dated 05.07.2021 with a direction that the same be treated as representation to the authorities – MoEF&CC, Ministry of Housing, DPCC and Commission for Air Quality Management. The DPCC rejected the representation by stating that the Air Act, 1981 is not applicable to indoor pollution. Other authorities have not taken any decision. According to the applicant, the view taken by the DPCC is erroneous as air pollution in large public buildings needs regulation in the interest of public health. The applicant has relied upon articles annexed to the petition as Annexures D to G. It is submitted that it is permissible to lay down standards under the Environment (Protection) Act, 1986 (EP Act), Environment (Protection) Rules, 1986 (EP Rules) as also the Air (Prevention and Control of Pollution) Act, 1981 (Air Act). The applicant has also referred to statement of objects and reasons of the Air Act, 1981 as follows:-

“2. The presence in air, beyond certain limits, of various pollutants discharged through industrial emissions and from certain human activities connected with the traffic, heating,

use of domestic fuel, refuse, incinerations, etc. has a detrimental effect on the health of the people as also the animal life, vegetation and property.”

7. We have heard learned counsel for the parties. During the hearing, apart from the pleadings referred to above, some further material has been relied upon to which reference will be made.

8. Question for consideration is whether a substantial question of environment arises under section 14 of the NGT Act and whether a case is made out for a direction under section 15(1) of the NGT Act.

9. We have duly considered the averments in the application, earlier order of the Tribunal dated 5.7.2018, stand of the respondents, relevant statutory provisions and the material produced during the hearing.

10. As per an article on the subject¹, toxic gases and particulate matter may be generated indoor which may adversely affect the employees working in such places and also general public visiting such places. The sources of indoor air pollutants can include building material, formaldehyde, volatile organic carbon, radon, asbestos, particulate matter, gaseous pollutants, biological pollutants. Conclusion in the article is as follows:-

“In above review made, it is evident that the indoor air quality is poorly maintained in many Indian buildings because of various reasons. Poor ventilation, reduced per capita floor space, usage of solid fuels for cooking and household products releasing toxic gases and particulate matter are the more depending factors for indoor air pollution. Polluted ambient air is also responsible for indoor air pollution as there is high circulation of air between indoor and ambient air. Therefore, maintaining good ambient condition with natural trees, maximum reduction in usage of indoor polluting household products can help in reducing the indoor pollution to the maximum.”

¹ **Retraction: Review on indoor air quality in Indian buildings** (IOP Conf. Ser.: Mater. Sci. Eng. 1145 012037) - <https://iopscience.iop.org/article/10.1088/1757-899X/1145/1/012156>

11. In WHO Guidelines for indoor air quality², reference is made to sources of pollutants in indoor buildings including benzene, carbon monoxide, formaldehyde, naphthalene, nitrogen dioxide, polycyclic aromatic hydrocarbons, radon, trichloroethylene and tetrachloroethylene. Having regard to such pollutants, WHO has suggested guidelines as follows:-

“ **Table A. Summary of indoor air quality guidelines for selected pollutants**

Pollutant	Critical outcome(s) for guideline definition
<i>Benzene</i>	• <i>Acute myeloid leukemia (sufficient evidence on causality)</i> • <i>Genotoxicity</i>
<i>Carbon monoxide</i>	<i>Acute exposure-related reduction of exercise tolerance and increase in symptoms of ischaemic heart disease (e.g. ST-segment changes)</i>
<i>Formaldehyde</i>	<i>Sensory irritation</i>
<i>Naphthalene</i>	<i>Respiratory tract lesions leading to inflammation and malignancy in animal studies</i>
<i>Nitrogen dioxide</i>	<i>Respiratory symptoms, bronchoconstriction, increase bronchial reactivity, airway inflammation and decreases in immune defence, leading to increased susceptibility to respiratory infection</i>
<i>Polycyclic aromatic hydrocarbons</i>	<i>Lung cancer</i>
<i>Radon</i>	<i>Lung cancer</i> <i>Suggestive evidence of an association with other cancers, in particular leukemia and cancers of the extrathoracic airways.</i>
<i>Trichloroethylene</i>	<i>Carcinogenicity (liver, kidney, bile duct and non-Hodgkin’s lymphoma), with the assumption of genotoxicity</i>
<i>Tetrachloroethylene</i>	<i>Effects in the kidney indicative of early renal disease and impaired performance.</i>
Guidelines	Comments
• <i>No safe level of exposure can be recommended.</i> • <i>Unit risk of leukemia per 1µg/m³ air concentration is 6 x 10⁻⁶</i>	

² **World Health Organization-Selected Pollutant -**
https://www.euro.who.int/__data/assets/pdf_file/0009/128169/e94535.pdf

• The concentration of airborne benzene associated with an excess lifetime risk of 1/10000, 1/100000 are 17, 17 and 0.17 $\mu\text{g}/\text{m}^3$, respectively.	
• 15 minutes-100mg/ m^3. • 1 hour-35 mg/ m^3. • 8 hours-10 mg/ m^3. • 24 hour-7 mg/ m^3.	
0.1 mg/ m^3 -30 minutes average	The guideline (valid for any 30-minute period) will also prevent effects on lung function as well as nasopharyngeal cancer and myeloid leukemia
0.1 mg/ m^3 -annual average	The long-term guideline is also assumed to prevent potential malignant effect in the airways
• 200 $\mu\text{g}/\text{m}^3$-1 hour average • 40 $\mu\text{g}/\text{m}^3$-annual average	No evidence of exposure threshold from epidemiological studies
• No threshold can be determined and all indoor exposures are considered relevant to health • Unit risk for lung cancer for PAH mixtures is estimated to be 8.7×10^{-5} per ng/ m^3 of B[a]P • The corresponding concentrations for lifetime exposure to B[a]P producing excess lifetime cancer risks of 1/10000, 1/100000 are approximately 1.2, 0.12 and 0.012 ng/ m^3, respectively.	B[a]P is taken as a marker of the PAH mixture
• The excess lifetime risk of death from radon-induced lung cancer (by the age of 75 years) is estimated to be 0.6×10^{-5} per Bq/ m^3 for lifelong non-smokers and 15×10^{-5} per Bq/ m^3 for current smokers (15-24 cigarettes per day); among ex-smokers, the risk is intermediate, depending on time since smoking cessation. • The radon concentrations associated with an excess lifetime risk of 1/100 and 1/1000 are 67 and 6.7 Bq/ m^3 for current smokers and 1670 and 167 Bq/ m^3 for lifelong non-smokers, respectively.	WHO guidelines provide a comprehensive approach to the management of health risk related to radon.
• Unit risk estimate of 4.3×10^{-7}	

<i>per µg/m³</i>	
• <i>The concentrations of airborne trichloroethylene associated with an excess lifetime cancer risk of 1:10000, 1:100000 are 230, 23 and 2.3 µg/m³, respectively.</i>	
<i>0.25 mg/m³-annual average</i>	<i>Carcinogenicity is not used as an endpoint as there are no indications that tetrachloroethylene is genotoxic and there is uncertainty about the epidemiological evidence and the relevance to humans of the animal carcinogenicity data</i>
”	

12. Our attention has also been drawn to Council of Scientific & Industrial Research (CSIR), Guidelines on ventilation of residential and office buildings³ and a documentary film on Indoor Air Quality Concerns and Action⁴.

13. We may now refer to some of the statutory provisions. Noise Pollution (Regulation and Control) Rules, 2000 have been framed under section 6 read with Section 25 of the EP Act, 1986 read Rule 5 of the EP Rules, 1986. ‘Public place’ is defined as follows:-

““public place” means any place to which the public have access, whether as of right or not, and includes auditorium, hotels, public waiting rooms, convention centres, public offices, shopping malls, cinema halls, educational institutions, libraries, open grounds and the like which are visited by general public; and.”

14. Thus, on that pattern indoor air quality can be regulated in respect of public places, as defined with such changes in the definition as may be required. Regulation need not be for domestic building as rightly pointed out by the MoEF&CC. There is no statutory bar to regulation of

³ **CSIR Guidelines on ventilation of Residential and office building -**
<https://www.niti.gov.in/sites/default/files/2022-01/VentilationGuidelines-and-VU-C-Disinfection-Technology-for-mitigation-ofSARS-CoV-2.pdf>
⁴ https://www.youtube.com/watch?v=kBie_sq7eRc

indoor air quality under the Air Act or the EP Act and the Rules. Need for such regulation is certainly shown by the studies referred to above. Thus, substantial question of environment arises and is answered to the effect that there is need for regulation of indoor air quality at public places. A case is made out for a direction to evolve an appropriate mechanism by the MoEF and CPCB in coordination with other concerned Ministries particularly the Ministry of Urban Affairs and Ministry of Health, with CPCB being nodal agency. Joint Committee may hold its first meeting within one month and after deliberations work out appropriate standards and protocols for indoor air quality for safeguarding public health at Public places under the EP Act, EP Rules or the Air Act within three months. It will be open to the applicants to make their respective representations before the Committee. Based on report of the Committee, MoEF/CPCB may issue appropriate orders under the relevant statutory provisions.

The applications are disposed of.

A copy of this order be forwarded to the MoEF&CC, CPCB, Ministry of Urban Affairs and Ministry of Health, GoI, by e-mail for compliance.

M.A. No. 377/2017 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dinesh Kumar Singh, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

Dr. Afroz Ahmad, EM

April 19, 2022
Original Application No. 143/2016 &
Original Application No. 206/2022
A

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION No. 43/2013(WZ)**

CORAM:

**Hon'ble Mr. Justice V.R. Kingaonkar
(Judicial Member)
Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

B E T W E E N:

- 1. Mr. Asim Sarode**
Aged : 41, Occ : Advocate
- 2. Mr. Vikas Shinde,**
Aged 27 Yrs., Occn : Advocate
- 3. Mrs. Neha Pathak-Khati,**
Age 27 yrs., Occn : Advocate,
- 4. Mrs. Vinda Vilas Raut-Mahajan,**
Age 29 yrs. Occn. Advocate,
Nos. 1 to 4 office at Flat No.1,
Prathamesh Housing Society,
Lane No.5, Prabhat Road, Pune
- 5. Mrs. Smita Singalkar-Sarode,**
Age 35 yrs., Occn : Advocate,
R/at 2/3, 2/4, Lord Apartment,
North Ambazari Marg, Dharampeth,
Kharetown, Nagpur 10.
- 6. Mr. Santosh Sangolkar,**
Age 32 Yrs. Occn. : Advocate,
R/at. Kanderao Nagar, Pimpala,
Jalgaon.

- 7. Ms. Roshani Wanode,**
Age 28 yrs., Occn : Advocate,
R/at. Indira chowk, Babulgaon,
District : Yavatmal.
- 8. Mr. Mahesh Bhosale,**
Age 30 Yrs. Occn : Advocate
At Aurangabad, R/at. Pargaon,
Tal. Patoda, Distt : Beed.
- 9. Ms. Savita Khotre,**
Age 30 yrs. Occn : Advocate,
R/at. Old city, Kala Maruti Road,
Akola 444 002
- 10. Mr. Rahul Mali,**
Age 33 yrs. Occn : Advocate,
R/at. Asta, Tal. Islampur,
Distt: Sangli,
- 11. Ms. Hema Katkar,**
Age 31 yrs., Occn : Advocate,
R/at. Post : Hupari, Distt :
Kolhapur.
- 12. Ms. Namrata Biradkar,**
Age 25 Yrs. Occn : Advocate,
R/at. Sadguru Fabrication,
Sadguru Hardev Nagar,
Opp. Kalyani Industries, MIDC
Latur 413 537.
- 13. Ms. Sarojani Tamshetti,**
Age 30 Yrs. Occn: Advocate.
R/at. 34/2/10, New Pacca Peth,
Ashok Chowk, Solapur 431 006.

14. Mr. Amit Shinde,

Age 29 Yrs. Occn : Advocate,
 R/at. Jayashree Apt. S.T. Colony,
 Vishrambaug, Tq. Sangli,
 Distt : Sangli 416 416.

....Applicants**A N D****1. Maharashtra Pollution Control Board,**

Through : Chairman,
 Kalpataru Point, 2nd, 4th floor,
 Opp. Cine Planet, Near Sion Circle,
 Sion (East), Mumbai 400 022.

2. State of Maharashtra,

Through : Chief Secretary,
 Maharashtra State, Mantralaya,
 Mumbai 400 032.

3. State of Maharashtra,

Through : Its Secretary,
 Environment Department,
 Mantralaya, Mumbai 400 032.

...Respondents**Counsel for Applicants :**

Mr. Asim Sarode,
 Mr. Vikas Shinde,

Counsel for Respondents :

Mr. D.M. Gupte,
 Ms. Supriya Dangare,

DATE : 6th September, 2014

J U D G M E N T

1. The Applicants have filed instant Application U/s. 14(1)(2) and 15 of National Green Tribunal Act, 2010 raising questions relating to unauthorized and unscientific burning of tyres which emit smoke containing toxic gases and pollutants affecting the environment and human life. The Applicants submit that the burning of tyres has now become a regular feature in any social and political agitation resulting in pollution and environment damage. The Applicants claim that though they are not willing to blame any individual party or group, but urge that such tyre burning, which is environmentally unsafe activity, needs to be banned immediately. The Applicants further submit that through this Application, they want to raise the need of urgent actions to be taken up by the regulatory agencies which have been impleaded as Respondents, by framing suitable Rules and regulations and also prepare mechanism for enforcing the same. The Applicants further submit that with the increasing awareness on the environmental pollution and its adverse effect on the human health, it is necessary that such steps are taken on priority. The Applicants also draws the attention that there are specific regulations for re-use and re-cycling of used tyres, in most of the advanced countries and also,

some developed countries and therefore, plead that India being signatory to various International Environmental Treaties, suitable regulations in this context are urgently required. It is the case of the Applicants that though the Environment (Protection) Act, 1986 and Air (Prevention and Control of Pollution) Act 1981 has given such powers to the regulating agencies, no specific rules or guidelines have been formulated by the Respondents. The Applicants, therefore, seek following reliefs:

- i. *The Respondents may be directed to adopt some scientific and advanced way by framing Rules regarding bar coding which will help to trace the used tyres and prevent the misuse of the old ones.*
- ii. *The Respondents may be directed to frame some Rules to regulate the industry relating to remolding of tyres in a more eco-friendly way, as other countries have in order to control the misuse of tyres.*
- iii. *The Respondent No.1-MPCB may kindly be directed to furnish details regarding number of industrial set up throughout Maharashtra State who are into business of remolding tyres, list of license holders who have been given permission to operate by the MPCB, incidences when MPCB taken actions against such industries for breaking environmental*

laws, level of toxic elements of the smoke coming out from these industries, measurements related to height of Chimneys at this various industries involved in remolding tyre work in Maharashtra.

2. The Maharashtra Pollution Control Board (MPCB), which is the Regulatory Authority, implementing Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act 1981 is Respondent No.1. Chief Secretary, State of Maharashtra is Respondent No.2 and Secretary, Environment Department; Government of Maharashtra is Respondent No.3. Only Respondent No.1 has filed Affidavit. Though the notices were served upon Respondent Nos. 2 and 3, they have not filed any affidavit and therefore, considering while noting their absence and non-participation in the Tribunal proceedings, Affidavit of MPCB alone has been taken into account in the present adjudication.

3. The Respondent-1, MPCB has filed two (2) Affidavits through Shri V.M. Motghare, Joint Director. In the Affidavit dated 4th May 2014, MPCB informed that they have constituted a Committee to propose suitable guidelines/regulations for tyre re-treading and tyre recycling Industries. Through the Affidavit dated 11th July

2014, MPCB has placed on record the report of the said Committee. MPCB submits that after sampling and analysis of tyre burning on laboratory scale basis, it has been concluded that the tyre burning in open atmosphere generates highly toxic, mutagenic and hazardous emissions, primarily owing to incomplete oxidation and therefore, MPCB has recommended the State Government, in exercise of the provisions of Sub-section 5 of Section 19 of the Air (Prevention and Control of Pollution) Act 1981, to issue a Notification prohibiting burning of tyres in the Air Pollution Control Area. MPCB has further suggested that the Law and Order enforcement Agencies i.e. Police and District Administration shall also be directed to take appropriate action against such tyre burning under the Bombay Police Act, Criminal Procedure Code etc. The MPCB's Affidavit further emphasize that the proper solution for minimizing such incidents of burning of tyres can be achieved only through creating and implementing a system for re-cycling, re-treading and re-using of used tyres, more particularly, by adopting "Life Cycle Approach" by encouraging and facilitating re-use and re-cycle of tyres. The report goes on to discuss various options to re-use and re-cycle in the International Scenario. The Communication

of MPCB dated 8th July 2014, to the Environment Department in this regard is placed on record.

4. Considering the submissions made by the parties, and also documents placed on record, we are of the considered opinion that following issues need to be adjudicated in the present Application.

I. Whether the tyre burning cause air pollution and pose a threat to human health?

II. Whether the present Used Tyre Management practices can be termed as environmentally sound and complying the regulations?

III. Whether the Respondents can be directed to enforce environmental regulation in Used Tyre Management under the present Regulatory framework?

5. The MPCB i.e. Respondent No.1 in its Affidavit dated 11th July 2014 has submitted, after sampling and analysis, that tyre burning in open atmosphere generates highly toxic, mutagenic and hazardous emissions. However, the MPCB Affidavit has not dealt with health impact of such tyre burning. The scrap tyres represent both a disposal problem and also, resource opportunity (For example e.g. as a fuel material replacement, and in other Application). The open tyre burning has been reported in the literature to be more toxic and mutagenic. The open tyre burning emissions includes “criteria” pollutants such as particulates, carbon monoxide (CO),

sulfur oxides (SO₂), oxides of nitrogen (NO_x) and volatile organic compounds (VOCs). They also include “non-criteria” hazardous air pollutants (HAPs), such as polynuclear aromatic hydrocarbons (PAHs), dioxins, furans, hydrogen chloride, benzene, polychlorinated biphenyls (PCBs), and metals such as arsenic, cadmium, nickel, zinc, mercury, chromium, and vanadium. Both criteria and HAP emissions from an open tyre fire can represent significant acute (short-term) and chronic (long-term) health hazards to nearby residents. Depending on the length and degree of exposure, these health impacts could include irritation of the skin, eyes, and mucous membranes, respiratory effects, central nervous system depression, and cancer.

6. The piled used tyres can also be a health hazard as they become breeding grounds for diseases causing pests and can even catch fire. Considering all these aspects, we have no hesitation to answer the Issue No.I in the Affirmative.

Issue No.II :

7. Used tyres can be disposed of for various end-uses such as fuel in the Industries, burning for heating purpose, resource recovery through distillation or pyrolysis process etc. With the increasing number of Motor

Vehicles, there is rapid increase in the amount of scrap tyres. The large quantity of scrap tyres is posing a serious environmental concern for their environmentally sound disposal. The main reason for this problem is that used tyres are not easily biodegradable. Admittedly, there is no system or specific regulations, which will ensure the environmentally sound management of the used tyres, tracking its journey from generation to the final disposal. In the absence of such system, no records are placed before this Tribunal about number of used tyres generated and its end-use wise disposal. The Counsel for MPCB fairly submits that with the growing awareness about the environmental impact of such used material, there is a need for some regulations considering the Life Cycle Approach for such used tyre management. He, however, pleads that such a mechanism needs to be developed at National level, similar to Battery rules and also E-waste rules which have been notified under Environment (Protection) Act, 1986 by the MoEF.

8. Considering all the above aspects, we are of the opinion that there is a need to have a systemic approach to deal with the problem of used tyre disposal. This is more evident from the submissions of the MPCB that out of 162 tyre remolding industries, only 55 tyres were registered

with MPCB which shows that everything is not well in the used tyre management. Further, there is no data or even approximation account available about total number of used tyres generated and end uses thereof. Simultaneously, we may also note that the CPCB is encouraging use of tyres as fuel for co-processing in cement/power/steel Industry subject to provisions of necessary Air Pollution Control Systems. Though, the used tyre is an opportunity in term of its contents and calorific value, there is need to systematically deal with the entire issue in a holistic manner based on "Life Cycle Approach", considering the pollution potential, tyre generation data, technology options, techno-economic viability and social implications. We are of the considered opinion that in order to formulate such regulation or notifying certain approach, it is incumbent that the MPCB shall conduct a scientific study about the used tyre generation, technologies, viability and its Life Cycle Assessment in order to form its strategy on a long-term basis. Therefore, while noting that the present system of used tyre management is not environmentally sound, we are of the opinion that there is a need of placing an elaborate and well defined system in place for environmentally sound tyre

disposal practices for used/scrapped tyres. The Issue-II is accordingly answered in the Affirmative.

Issue No.III :

9. The Environment (Protection) Act, 1986 has given powers to the Central Government to take measures to protect and improve the environment, under Section 3 of the said Act, which is reproduced below:

3. Power of Central Government to take measures to protect and improve environment—

(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

10. The Authorities are also given powers to give Direction under Section 5 of the said Act to effectively deal with environment degradation and protection concerns.

The said Section is reproduced below :

5. Power to give directions -- *Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its*

functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation -- For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) Stoppage or regulation of the supply of electricity or water or any other service.*

11. Air (P&CP) Act, 1981 also defines functions of the Central and State Pollution Boards in Section 16 and 17 respectively. The main function of Central Board shall be to improve the quality of Air and to prevent, control or abate pollution in the country. The Air (Prevention and Control of Pollution) Act 1981 also gives powers to declare Air Pollution Control areas to the State Government and Sub section 3 and 5 gives specific powers to control the use of fuel and also restricting burning of any material. The same are reproduced below :

19. Power to declare air pollution control areas.—

- (1) The State Government may, after consultation with the State Board, by notification in the Official Gazette, declare in such manner as may be prescribed, any area or areas within the*

State as air pollution control area or areas for the purposes of this Act.

(2) ---

(3) *If the State Government, after consultation with the State Board, is of opinion that the use of any fuel, other than an approved fuel, in any air pollution control area or part thereof, may cause or is likely to cause air pollution, it may, by notification in the official Gazette, prohibit the use of such fuel in such area or part thereof with effect from such date (being not less than three months from the date of publication of the notification) as may be specified in the notification.*

(4) ----

(5) *If the State Government, after consultation with the State Board, is of opinion that the burning of any material (not being fuel) in any air pollution control area or part thereof may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the burning of such material in such area or part thereof.*

12. We have been informed by the learned counsel of MPCB that entire State of Maharashtra has already been declared as Air Pollution area U/s. 19(1) of the Air Act. The Boards have powers to give directions U/s. 31(A) which are reproduced below :

31 (A) Power to give directions.--*Notwithstanding anything contained to any other law, but subject to*

the provisions of this Act and to any directions that the Central Government may give in this behalf a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) the stoppage or regulation of supply of electricity, water or any other service.*

13. Considering all these legal provisions, it is abundantly clear that the provisions of the Environment Protection Act and also the Air (Prevention and Control of Pollution) Act 1981 give sufficient powers to the MoEF, CPCB, State Department of Environment and MPCB to deal with this issue.

14. The end-use of such used tyres can be broadly classified in three categories.

1. Open burning, which is generally incidental, like agitations, warming/heating purpose etc, mostly unorganized use.
2. Use as a fuel in the Industry, and in brick kilns.
3. Use for resource recovery i.e. chemical recovery through distillation or pyrolysis or some other use like used tyre based products i.e. mats, footwear etc..

15. MPCB has already placed on record the recommendations submitted to the department of Environment U/s. 19(5) of Air Act, to ban burning of tyres in open places and to direct the Law and Order enforcement agencies to deal with the issues vide their letter dated 8-7-2014. No information has been placed on record about the status of this proposal at end of the Environment Department. We are of the opinion that in order to deal with the Used Tyre use in category 1, as mentioned above, such proposal needs to be expeditiously considered and decision needs to be taken in this regard by the State Environment Department. We expect the Secretary, Department of Environment, Maharashtra to take a decision on this proposal expeditiously.

16. As regards Used Tyre category 2, we notice that the MPCB is competent to restrict such use of used tyres as an industrial fuel through its consent management process. However, as far as unorganized Industrial sectors like brick kiln, small and tiny units are concerned, MPCB and the Department of environment have necessary the powers conferred upon them under Section 19(3) of the Air (Prevention and Control of Pollution) Act 1981 to restrict use of used tyre as fuel by issuing necessary Notification.

Unrestricted use of third category of used tyre can also be controlled by the MPCB through the Consent Management. However, in order to encourage and facilitate the use of used tyres either in category 2 and 3, it is necessary to frame suitable guidelines and/or regulations as described in above paras.

17. We, therefore, are of the considered opinion that there is an urgent need to regulate the used tyre disposal to avoid the environmental problems, on the principles of Sustainable development and pre-cautionary principles. And therefore, the MPCB need to undertake a scientific study for Life Cycle Assessment of Used tyres in Maharashtra adopting the scientific and analytical tools to deal this issue in a holistic manner. Several innovative approaches like Extended Producers Responsibility (EPR), Advanced Recycling charges (ARC), common facilities, use of bar coding etc can be adopted to ensure effective collection and disposal of used tyres. We, therefore, direct the MPCB to undertake such study in next six (6) months and finding shall be shared with the MoEF/CPCB.

18. We also expect that the MoEF and CPCB shall also take a note of this environmental concern and explore the need and possibility of framing separate regulations on the

lines of battery rules and e-waste Rules in next six (6) months.

19. In view of the above, the Application is partly allowed in following terms, under the powers conferred upon the Tribunal under Section 19 read with section 20 of NGT Act, 2010.

- 1)** Department of Environment, State of Maharashtra shall take a decision on recommendations made by the MPCB vide letter dated 1-7-2014 within eight (8) weeks and issue necessary Notification in two (2) weeks thereafter.
- 2)** There will be prohibition on burning of tyres in open areas and at public places, in the localities surrounded by the residential areas, public places, schools, hospitals, offices etc. in view of the potential air pollution and health hazards. The Police authorities, District Administration and urban local bodies shall ensure the compliance of this prohibition with immediate effect. In case of defiance it be treated as offence U/s. 188 of the I.P. Code.
- 3)** The Department of Environment, State of Maharashtra and MPCB shall conduct a scientific study on the Life Cycle Assessment of used tyres and frame suitable guidelines/ regulations to ensure environmentally sound

disposal practices of the used tyres in next eight (8) months.

- 4) The reuse of used tyres as fuel in industries, including brick-kilns etc. without specific permission of MPCB and also, provision of necessary area Pollution Control Systems is prohibited with immediate effect.
- 5) These directions and environmental effects of open burning of tyres shall be brought to the notice of all the concerned agencies by MPCB and state environment department and be given wide publicity for public information and awareness, in next two (2) weeks.

Accordingly, the Application is disposed of. No costs.

.....,JM
(Justice V. R. Kingaonkar)

....., EM
(Dr. Ajay. A. Deshpande)

Date : 6th September, 2014

Item Nos. 08 & 09

Court No. 2

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

Original Application No. 638/2023

In re: News item appearing in Times of India dated 10.10.2023 titled
“Feeling anxious? Toxic air could be to blame”

WITH

Original Application No. 658/2023

In re: News item appearing in Times of India dated 10.10.2023 titled
“Delhi, Chennai studies hint at pollution link to diabetes”

Date of hearing: 19.12.2023

**CORAM: HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. Avinash Sharma, Adv. for MoEF & CC (Through VC)
Mr. Amit Singh Chauhan, Adv. for CPCB (Through VC)
Mr. Arun Sanwal, Adv. for Indian Council of Medical Research

ORDER

1. This original application was registered *suo motu* on the basis of news item titled **“Feeling anxious? Toxic air could be to blame”** published in ‘The Times of India’ dated 10.10.2023. As per the said news item, long term exposure to air pollution could lead to higher risk of depression and anxiety besides respiratory disorder. People who breathe in polluted air experience changes within the brain that control emotions and chances of developing anxiety, depression, etc. are increased. The news item further contains details of following studies in this regard:

“HAVING A BAD -AIR DAY?”

- *A study from researchers at Harvard, published in March 2023, adds to the evidence connecting exposure to air pollution (small particulate matter (PM2.5), nitrogen oxide and nitrogen dioxide) to increased risk of dementia.*

- *A study published in journal Neuro Toxicology reveals that people who breathe polluted air are more likely to develop mental health problems than those who breathe clean air.*
- *Some researchers have associated air pollution with higher levels of stress, psychological distress, increased risk of dementia and Alzheimer's and depression.*
- *A study published in Environmental Health Perspectives found an association between short-term exposure to elevated levels of air pollution and increased emergency room psychiatric visits among children."*

2. The matter was examined by Tribunal on 31.10.2023 and it observed that the issue needs to be examined and original application is in respect of various chemical and physical components causing air pollution and adverse effect of each of such physical and chemical component on different organs of human body. Adequate measures are required for control of such air polluting components and their adverse effect on various organs of human body, especially those which are affecting the brain and emotional, psychological aspect.

3. Though in another matter i.e. OA No. 663/2023, by order dated 20.10.2023, larger issue relating to air pollution and dip in the quality of air in Delhi was already taken up, but Tribunal found that specific issue noted in present matter required further examination. Consequently, six respondents were impleaded and notices were issued.

4. Replies dated 09.12.2023 have been filed by Respondent 2, i.e., Central Pollution Control Board (hereinafter referred to as "**CPCB**") and dated 18.12.2023 by Respondent 1, i.e., Ministry of Environment Forest and Climate Change (hereinafter referred to as "**MoEF&CC**").

5. On behalf of Respondent 3, Shri Arun Sanwal, Advocate has put in appearance and he prays for and allowed three days' time to file its response.

6. Other respondents have not submitted/filed any response. As a last opportunity, we allow a month's time to Respondents 4 and 5 to file their response, failing which we may be compelled to summon Principal Officer/Head of Department of Respondents 4 and 5 in person.

7. We also find from reply submitted by CPCB that they admit presence of several metals and other polluted elements in air causing pollution for which National Ambient Air Quality Standards have been notified but, no effective steps have been taken by CPCB for controlling and preventing air pollution from these parameters and their prevalence levels that is for all 12 notified parameters.

8. We also find from Annexure II to reply at para 10.0 that CPCB is funding National Capital Region Urban Local Bodies for construction/repair of roads and mechanical road sweepers under EPC funds. Similar funds are being also made available to Ghaziabad Municipal Corporation and other local bodies without assigning specific reasons for doing so. From the reply, we also find that amount of environmental compensation deposited with CPCB is being diverted for unauthorized purposes. We find it appropriate in the present case to require CPCB to give complete details of entire amount of environmental compensation lying deposited with it and shall also give manner in which any amount out of above fund has been spent or utilized till 30.11.2023.

9. We asked learned Counsel appearing for CPCB as to how CPCB is concerned with construction/repair of roads which is the statutory responsibility of local bodies and funds of environmental compensation cannot be diverted for such activities which are not permissible to be undertaken by CPCB and this is a gross misuse and serious financial irregularity by diverting funds for unauthorized activities. We intend to

issue direction for recovery of the same from concerned officer(s) of CPCB who has/have sanctioned or diverted said funds for unauthorized purposes and having no explanation to do so. At this stage, learned Counsel appearing for CPCB stated that before passing any order, he may be granted some opportunity to seek instructions on this aspect and place specific reply before Tribunal. In view of above statement, we allow him a month's time to file reply and to ensure that amount deposited with CPCB under the head of "Environmental Compensation" is neither diverted nor there should be any financial irregularity as it amounts to misappropriation of funds on the part of CPCB by providing such funds for activities which are not within the domain of CPCB and in the garb of protection of environment, remediation and rejuvenation, the activities which are not directly or indirectly connected with the same but statutory duties of some other statutory bodies should not be undertaken by CPCB.

10. In reply of MoEF&CC also presence of several polluted elements in air are admitted and it is said that some directions have been issued by various authorities from time to time but we do not find that any effective action has been taken in the matter.

11. Learned Counsel appearing for MoEF&CC when asked as to what effective steps have been taken by MoEF&CC, he admitted that reply given by MoEF&CC is not clear on this aspect and despite repeated query, he could not give even a single step taken for effective control of air pollution by MoEF&CC. For filing such vague and irrelevant reply, we impose a cost of Rs. 25,000/- upon Respondent No. 1 and direct it to file a supplementary reply giving details of all steps taken for effective monitoring and control of air pollution within one month.

12. The amount of cost shall be deposited with Registrar General of Tribunal by next date of hearing.

13. List on 14.02.2024.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

December 19, 2023
Original Application No. 638/2023
Original Application No. 658/2023
DV