

ITEM NO.6

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: CROP BURNING

ONLY" IN W.P.(C) NO. 13029/1985 IS LISTED.

"ONLY" NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:

MR. HARISH N. SALVE, SR. ADVOCATE (A.C.)
 MS. APARAJITA SINGH, SR. ADVOCATE (A.C.)
 MR. A.D.N. RAO, SR. ADVOCATE (A.C.)
 MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)
 PETITIONER-IN-PERSON
 MR. G.S. MAKKER,
 MR. AMRISH KUMAR,
 MR. SANJAY KR. VISEN,
 MR. KAMLENDRA MISHRA,
 MR. AJAY PAL,
 MR. SANDEEP KR. JHA
 MR. JYOTI MENDIRATTA, ADVOCATES)

Date : 07-11-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
 HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For parties :

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

Mr. A.D.N. Rao, Sr. Adv. (A.C.)

Mr. Harish N. Salve, Sr. Adv. (A.C.) (NP)

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

Mr. Tushar Mehta, Ld. S.G.

Mr. Wasim Qadri, Sr. Adv.

Mr. Gurmeet Singh Makker, AOR

Ms. Suhasini Sen, Adv.
Mr. Rajesh Kumar Singh, Adv.
Mr. S.s. Rebello, Adv.
Mr. Subhranshu Padhi, Adv.
Ms. Archana Pathak Dave, Adv.
Ms. Ruchi Kolhi, Adv.
Mr. G.S. Makker, AOR

Mr. Amrish Kumar, AOR
Ms. Suhasini Sen, Adv.
Mr. Rajesh Kumar Singh, Adv.
Mr. Shubhranshu Padhi, Adv.
Mrs. Archana Pathak Dave, Adv.

Mr. Gurminder Singh Adv. Gen. Punjab
Mr. Shadan Farasat, A.A.G.
Ms. Rooh-e-hina Dua, AOR
Mr. Harshit Khanduja, Adv.
Mr. Sahib Kochhar, Adv.

Mr. Kanu Agrawal, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Varun Chugh, Adv.
Mr. Krishna Kant Dubey, Adv.
Ms. Indira Bhakar, Adv.
Mr. M.K. Maroria, AOR

Ms. Alka Agrawal, Adv.
Ms. Archana Pathak Dave, Adv.
Ms. Bobby Devi Bonia, Adv.
Mr. Aniruddh Bhatt, Adv.
Mr. Prashant Singh, Adv.
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Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. B.k. Satija, A.A.G.
Mr. Rahul Khurana, Adv.
Ms. Suvarna Singh, Adv.
Mr. Sanjay Kr. Visen, AOR

Mr. Kamendra Mishra, AOR

Mr. Praveen Swarup, AOR
Mr. Gaurava Yadava, Adv.
Mr. Devesh Maurya, Adv.
Ms. Pratishtha Majimdar, Adv.
Mr. Ravi Kumar, Adv.
Ms. Archana Sharma, Adv.

Mr. Rajatdeep Sharma, Adv.
Mr. Ajay Pal, AOR

Dr. Manish Singhvi, Sr. Adv.
Mr. Sandeep Kumar Jha, AOR
Ms. Shubhangi Agarwal, Adv.
Mr. Jyoti Mendiratta, Adv.

Mr. Vikas Singh, Sr. Adv.
Mr. Varun Singh, Adv.
Mr. K. S. Gupta, Adv.
Ms. S. Gupta, Adv.
Ms. Deepeika Kalia, Adv.
Ms. Vaishnavi, Adv.
Mr. Keshav Khandelwal, Adv.

Ms. Ruchi Kohli, Adv.
Ms. Srishti Mishra, adv.
Mr. Vaibhav Kandpal, Adv.

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

IN RE : CROP BURNING :

The residents of Delhi have been struggling with health issues because we do not seem to find a solution year after year to the aggravating problem of pollution at this time of the year. That part of the year passes and it goes on to the next year. This has been the ongoing process for five years! It is time that something is done as of yesterday than postponing it and we do believe that matter requires immediate attention and Court monitoring irrespective of the fact whether it improves or not in the next

few days.

There are various issues flagged by the counsels in this respect. Some constructive suggestions have been made by Mr. Gurminder Singh, learned Advocate General for the State of Punjab. The suggestions are as under :

1) The farmers are burning the stubble on account of economic reasons. The alternatives given to them are not being adhered to - in our view because of obstinacies in some cases and as Mr. Gurminder Singh says in some cases because of economic reasons. It is his suggestion that an endeavour should be made that the alternative solution is provided free of cost. Thus while expensive machines have been purchased, even where 50% or 25% cost is to be paid by the farmers, in view of small holdings he submits farmers are unwilling for the same. He thus suggests that the State of Punjab is willing to bear 25% of cost of making those facilities free and his suggestion is that 25% can be borne by Delhi. There is a common political dispensation, obviously to the extent of the aforesaid 50%, there seems to be no difference of perception. He simultaneously says that the Central Government can bear 50% of the cost and we do believe that when the centre provides so

many other subsidies, there is no reason why this cost should not be borne. Let us say that these are immediate measures required for the short term.

2) The State of Punjab has seen a scenario where the growth of paddy is causing water table to decline and that too drastically. A number of wells is stated to have gone beyond redemption. Thus the very cultivation of paddy which is certainly not consumed in Punjab is a problem. This is his suggestion and we do believe correctly so, that the paddy cultivation must be phased out to be substituted with other crops and the central Government should explore the aspect of giving minimum support price for the alternative crops rather than going for paddy.

3) The misuse is arising from MSP for paddy because paddy grown in adjacent States is then brought into Punjab to claim MSP and sold under the MSP policy.

4) The particular kind of paddy which is grown mostly in Punjab of which the stubble is a by-product and this is coupled with the season when it is grown and the period required for cultivation which causes the problem which may not be true for Basmati grown in other States. A serious look is required. Thus

whether this kind of paddy should at all be grown and certainly we believe not in Punjab because the problem is persistent with the particular paddy which is grown and the time period in which it is grown. In fact 15 years back this problem did not exist because this particular cropping did not take place.

5) It is true that Delhi has a particular locational issue. Therefore, weather conditions in and around Delhi State affects the pollution level. We cannot be dependent upon the weather conditions alone to hope for some reduction.

We want all the stakeholders to act promptly in respect of the aforesaid aspects.

Insofar as the immediate action is required, the Punjab Preservation of Subsoil Water Act, 2009 has been brought to our notice. No doubt, the objective of that Act is to preserve the subsoil water but there are ramifications on pollution also arising from the violation of the provisions of that Act because if the sowing takes place after a time period, the cutting of the paddy also gets delayed and then it hits the season where due to atmospheric conditions the impact is borne by Delhi and surrounding areas. The said Act also provides for

the punitive measures so that the farmers sow the crop after the specified date.

What is submitted is that when paddy used to be sowed earlier, this problem used to not arise. The adherence to this Act is causing a problem which requires the State of Punjab to have a re-look into the Act.

In our view, the bottom line is that very sowing of paddy which is not a local crop and which is not consumed locally is the basis of the problem. As submitted it is not a regular crop. The switch over to alternative crops is necessary so that next year we don't face this problem. The switch over can only occur when the MSP is not granted for paddy but is given to an alternative crop, something which the Central Government in any case is seeking to encourage by growing and utilization of the traditional crops.

We direct the State Government of Punjab and for that matter to all other States adjacent to Delhi, which are Haryana, Rajasthan and Uttar Pradesh and some parts of Delhi to ensure that crop burning is stopped forthwith and local SHO is made responsible for it under the overall supervision of the DGP and Chief Secretary for the time being.

Mr. Gopal Shankaranarayan points out that one of the modalities stated to be suggested by the Hon'ble Prime Minister himself is to produce Ethanol from Maze which may help in improving the environmental situation.

Learned Solicitor General also mentions the fact that Chief Minister of Delhi himself has suggested that in Delhi Government in association with the Indian Agricultural Research Institute at PUSA and referred to as PUSA DE-Composer has proved to be a success in addressing the problem of stubble burning and further demanding specific timeline from the Punjab Government in tackling the problem. This aspect should also be addressed and the response be placed to the same.

It is stated that the smog tower which has been instituted in pursuance to the directions issued earlier albeit on experimental basis, is not working. On our query, the answer is some disciplinary action is proposed against an officer, who is Chairman of DPCC. This is ludicrous. We want the tower to be working. As to against which officer what they do is their business.

It is suggested that a real time monitoring was to take place by the DPCC but the result has not been

put in public domain. This aspect has been set out in IA No. 231822 of 2023 which makes prayers which read as under :

a) Direct the Delhi Pollution Control Committee to immediately release data from the study on "Real Time Source Apportionment and Forecasting for Advance Air Pollution Management in Delhi", commissioned by it,

b) Direct the Delhi Pollution control Committee to publish real time source apportionment data for the sources of air pollution in Delhi on an ongoing basis, at least for this Winter Season of 2023-2024.

c) Direct the Government of NCT of Delhi as well as the Delhi Pollution Control Committee to re-open and operationalize the Smog Tower installed at Baba Kharak Singh Marg, Connaught Place, New Delhi.

We direct forthwith compliance by allowing the aforesaid prayers and direct the Chairperson of DPCC to remain personally present in Court on the next date.

IA 23281/2023- application for intervention is allowed.

At the suggestion of Ms. Aparajita Singh, learned Amicus, we direct the Delhi State Government to monitor and ensure that the MSW is not burnt in the city in the open as happens during this season and has an impact.

Lastly, we consider appropriate that for immediate action, the Cabinet Secretary call for a

meeting tomorrow itself whether physically or by zoom and all stake holders will connect to ensure that we have a better picture and some redemption by Friday.

Ms. Aparajita Singh, learned Amicus Curiae points out that in order to control vehicular pollution, the coloured coded sticker was envisaged and a reference in that behalf has been made even in the order dated 02.12.2022 in respect of the earlier order dated dated 21.08.2020. It appears that the same has been implemented only by the Delhi Government while yet not implemented even by the adjacent States. No compliance report has been filed. All concerned States to obtain instructions.

It is thus suggested that though the Delhi Government is seeking to impose restrictions on the basis of "Odd-Even", she submits that this is really an unscientific method if on the basis of colour coded stickers, vehicles which have orange stickers can be banned instead. On this aspect also the State Government will report back to us.

We may also note that there is a large number of the App based taxis in Delhi which have registrations in different States. If we look at the roads, each one is carrying only one passenger. We would like to know whether there is any way of

monitoring, especially, during this period of time that only the taxis registered in Delhi are permitted to ply as an additional measure to control the pollution.

The Delhi Government to also place before us the figures of Environment Compensation Charge, which has been collected and in what manner it has been utilized.

List on 10.11.2023 along with IA No. 232078/2023.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)