

ITEM NO.301

Court 1 (Video Conferencing)

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(Civil) No.1135/2020

ADITYA DUBEY (MINOR) & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 98165/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No.150881/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 149458/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 152069/2021 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 149457/2021 - INTERVENTION APPLICATION, IA No. 148255/2021 - INTERVENTION APPLICATION, IA No. 152068/2021 - INTERVENTION APPLICATION, IA No. 151957/2021 - INTERVENTION APPLICATION, IA No. 150880/2021 - INTERVENTION APPLICATION & IA No. 150968/2021 - INTERVENTION/IMPLEADMENT)

Date : 29-11-2021 This matter along with applns. were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Vikas Singh, Sr.Adv.
Mr. Nikhil Jain, AOR
Mr. Meenesh Dubey, Adv.
Ms. Deepeika Kalia, Adv.
Mr. Satya Prakash, Adv.
Mr. Vinod Kr. Jain, Adv.
Mr. Satwik Mishra, Adv.
Mr. Pramod Kumar, Adv.

For Respondent(s)

Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. Gurmeet Singh Makker, AOR
Ms. Suhashini Sen, Adv.
Mr. Navanjay Mahapatra, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Rajat Nair, Adv.

Ms. Uttara Babbar, AOR

Mr. D.S. Patwalia, AG, Punjab
Ms. Ranjeeta Rohatgi, AOR
Mr. Anirudh Bakhru, Adv.
Mr. Gauravjit Patwalia, Adv.

Mr. Anil Grover, AAG, Haryana
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjeev Prakash Upadhyay, Adv.
Mr. Sanjay Kumar Visen, AOR

Dr. A.M. Singhvi, Sr. Adv.
Mr. Rahul Mehra, Sr. Adv.
Ms. Jyoti Mendiratta, AOR

Mr. Kaushal Yadav, AOR
Mr. Kamlesh Kumar Maurya, Adv.
Mr. Nandlal Kumar Mishra, Adv.
Mr. Shafik Ahmed, Adv.
Mr. Vivekanand Rana, Adv.
Ms. Yashoda Katiyar, Adv.
Mr. Vishal Tiwari, Adv.
Mr. Dhruv Singh, Adv.

Mr. Ravindra Raizada, AAG, UP
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Anurag Tiwari, Adv.
Mr. Kamendra Mishra, AOR

Mr. Haresh Raichura, AOR
Ms. Saroj Raichura, Adv.
Mr. Kalp Raichura, Adv.
Mr. Ram Bhadauria, Adv.
Mr. Rajat Vats, Adv.

Mr. Rakesh Dahiya, AOR
Mr. Aditya Dahiya, Adv.
Mr. Ravi Swami, Adv.
Mr. Bhudev Prasad Vaishnav, Adv.

Mr. Anilendra Pandey, AOR
Charanpal Singh Bagri, Adv.
Dr. Gurjit Kaur Jassar Bagri, Adv.
Mr. Sandeep, Adv.
Mr. Manoj Kumar, Adv.
Mr. Raju sonkar, Adv.

Mr. Rahul Shukla, Adv.

Mr. Kumar Dushyant Singh, AOR

Ms. Shyel Trehan, Adv.

Mr. Chirayu Jain, Adv.

Mr. Raghav Anand, Adv.

Mr. Shivendra Singh, AOR

Ms. Sanchita Ain, AOR

Mr. Manish Kumar, Adv.

Mr. Nakul Jain, Adv.

Mr. Piyush Kaushik, Adv.

Mr. Amit Kumar, Adv.

Mr. Hayat Ahluwalia, Adv.

Ms. Divya Roy, AOR

UPON hearing the counsel the Court made the following

O R D E R

The Court is convened through Video Conferencing.

Heard Mr. Tushar Mehta, learned Solicitor General appearing for the Union of India, Dr. A.M. Singhvi, learned Senior counsel appearing for the Government of National Capital Territory of Delhi, Mr. D.S. Patwalia, learned Advocate General appearing for the State of Punjab, Mr. Anil Grover, learned Additional Advocate General appearing for the State of Haryana, Mr. R.K. Raizada, learned Senior counsel appearing for the State of Uttar Pradesh and Mr. Vikas Singh, learned Senior counsel appearing for the petitioners at a considerable length today.

At the commencement of hearing, Mr. Tushar Mehta, learned Solicitor General has filed an affidavit dated 28-11-2021 on behalf of Ministry of Environment, Forest and Climate Change (Respondent No.1) in compliance with the directions passed on 24-11-2021.

A perusal of the affidavit would show that the respondents are taking long term as well as short-term measures to combat air pollution and have passed certain directions, after consultation with the different State Governments.

Paras 14, 15, 16 and 17 of the said affidavit dated 28-11-2021 are extracted below:-

"Para 14. It is submitted that as pointed out earlier significant cause for degradation of the environment in the area of NCR was found to be that of polluting industries. Accordingly, the Commission had issued directions on 12.08.2021 to the State Governments of Uttar Pradesh, Haryana and Rajasthan for shifting of industries operating in NCR districts to PNG/cleaner fuels. It is submitted that as per the data received by the Commission the said direction is either partly complied with or still remains to be complied with. Accordingly, it is respectfully prayed that this Hon'ble Court may be pleased to direct the respective State Government to file their compliance report in respect thereto before this Hon'ble Court.

Para 15. Furthermore, the industries which already have gas supply available to them, but are still using other polluting fuels, have been directed to be closely and regularly monitored for switching over to cleaner gaseous fuels at the earliest. Here again, in the respectful submission of the deponent as per the data received by the Commission, the said direction is either partly complied with or still remains to be complied with, uniformly by all the industries. Accordingly, it is respectfully prayed that this Hon'ble Court may be pleased to direct the respective State Governments to file their compliance report in respect thereto before this Hon'ble Court.

Para 16. In view of the aforesaid facts and circumstances, it is respectfully submitted that though the Commission has been regularly and scrupulously monitoring and ensuring compliance of the directions issued by it, however, as stated above, on ground, there are reports of certain short-comings in the implementation of the directions issued by the Commission by the respective State Governments. Thus in the interest of justice and in interest of the emergent need to improve the Air Quality in the region, it is respectfully submitted that the respective State Governments may be directed to submit its compliance report before this Hon'ble Court on the following issues:-

- i. Status of industries in NCR running on any other fuels, other than PNG, where PNG infrastructure and supply is already available;
- ii. Status of implementation of direction of immediate closure of industries running on unapproved fuels or

industries running with invalid Consent to Operate (CTO);
iii. Status of implementation of the direction of ban on use of diesel generating (DG) sets, except as back up for emergency purposes;

iv. Status of implementation of the direction of impounding petrol/diesel vehicles, which are more than 15/10 years old and still found plying in the NCR;

v. Steps taken by the respective State Governments in employing the efforts on ground towards dust prevention, control and suppression efforts from roads and from open areas along the right of way;

vi. Status on the checks and action taken on visibly polluting vehicles and vehicles without valid PUC;

vii. Steps taken by the respective State Governments for dust mitigation measures in C&D sites, C&D waste management as per the rules and directions related to transportation of C&D materials;

viii. Steps taken by the respective State Governments for registration of construction projects on the Web Portal of respective states for remote monitoring by enforcement agencies and self-certification of compliance of rules related to C&D activities by the project proponents;

17. It is respectfully submitted that in anticipation of the adverse air quality scenario that generally prevails during the winter months in the region, a special preparatory meeting was held on 20th September., 2021, with the Chief Secretary of Government of NCT of Delhi for prevention and control of Air Pollution in NCT of Delhi. The following issues were discussed in detail and appropriate measures were advised to the Government of NCT of Delhi, as under:-

i. Setting up of Web Portal for Monitoring of Dust Control measures at Construction and Demolition sites;

ii. Setting up of "Dust Control & Management Cell" by Road Owning/maintaining/construction agencies for monitoring and effective implementation of dust control measures;

iii Effective implementation of plan of Action for eliminating the fire at landfill sites and open

biomass burning falling under their administrative jurisdiction;

iv. Implementation of the Greening and Plantation Action Plan;

v. Timely submission of Report on "safeguarding & Enforcement measures including monitoring/analysis of the progress made on the various parameters captured in bi-monthly reports;

vi. Augmentation of public transport system by employing more buses. As per the direction of this Hon'ble Court, the number of bus fleet within GNCT was required to be augmented to app. 11,000/-. However, the fleet of 6000 app. Buses which were existed in year 2010 have now depleted to app. 3000. Thus urgent steps are required to be taken to augment bus fleet in GNCT.

vii. Expediting finalization of pilot study for conversion of CNG to H2CNG buses.

viii. Improvement in first and last mile connectivity in NCT of Delhi to boost Public Transport System by removing the cap on registration of auto-rickshaws in Delhi to promote e-auto-rickshaws;

ix. Constitution of Task Forces and intelligent Traffic Management System (IITM) for smooth traffic management;

x. Effective enforcement of PUC System;

xi. Augmentation of the battery charging/battery swapping infrastructure to promote e-mobility;

xii Action on Petrol/Diesel Vehicles more than 15/10 years old, plying on roads in Delhi;

xiii. Submission of fortnightly report on the inspection of the industries for compliance of use of only approved fuels;

xiv. Effective implementation of the Pilot Project in SDMC jurisdiction for abatement of Air Pollution from "Non-Point" dispersed sources in association with Air Pollution Action Group(APAG)."

It would also be seen from the said Affidavit that the Commission For Air Quality Management In National Capital Region and Adjoining Areas *inter alia* passed the following directions as far back as on 11-6-2021 which read thus:-

"WHEREAS, dust from the Construction and Demolition (C&D) activities is a major and consistent source of Air Pollution in the National Capital Region and contributes adversely to PM 2.5 and PM 10 levels and thus, is a great cause of in abatement of Air Pollution"

The said Commission issued the above-mentioned directions to the Chairman, New Delhi Municipal Council, the Chairman, Central Pollution Control Board and the Member Secretary, Delhi Pollution Control Committee.

The affidavit dated 28-11-2021 indicates that some of the directions were complied with partially and certain others were not complied with at all by the State Governments and other agencies.

In view of the fact that the affidavit dated 28-11-2021 is filed by the Ministry of Environment only today, we are inclined to grant an opportunity to the Government of National Capital Territory of Delhi and the State Governments of Uttar Pradesh, Haryana, Punjab and Rajasthan to respond to the averments made in the affidavit filed by Respondent No.1, well before Wednesday, the 1st December, 2021.

We would like to specifically know from the aforesaid State Governments about those directions which have since been complied with by them and those which have not yet been complied with by them, along with reasons for such non-compliance.

We further direct the State Governments to comply with the said directions forthwith and file compliance affidavits in this behalf well before the next date of hearing.

Mr. Vikas Singh, learned Senior counsel appearing for the petitioner has raised certain issues with regard to construction activities being carried out in the National Capital Territory of

Delhi, which according to him, is the major cause of air pollution in Delhi.

In view of the above, Mr. Tushar Mehta, learned Solicitor General is directed to file response to the said submission made by Mr. Vikas Singh, learned Senior counsel and get instructions in this behalf on the next date of hearing.

As jointly prayed by the learned Senior counsels appearing for the parties, list the matter on Thursday, the 2nd December, 2021.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)