

Item Nos.06 to 13

Court No. 1

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

Original Application No. 56(THC)/2013  
(M.A. No. 582/2018, M.A. No. 1554/2018 & M.A. No. 1681/2018)

WITH

Original Application No. 57(THC)/2013  
(M.A. No. 391/2017)

WITH

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

WITH

Original Application No. 726/2017  
(M.A. No. 1382/2017)

WITH

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

WITH

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

WITH

Execution Application No. 47/2018  
(M.A. No. 1480/2018)

IN

O. A. No. 453/2018

WITH

Original Application No. 726/2018  
(M.A. No. 1632/2018)

Satish Kumar

Versus

Applicant(s)

Union of India &Ors.  
WITH

Respondent(s)

Mahavir Singh

Versus

Applicant(s)

Union of India &Ors.  
WITH

Respondent(s)

Satish Kumar

Versus

Applicant(s)

Union of India &Ors.  
WITH

Respondent(s)

Chattar Singh Rachhoya  
Applicant(s)

Versus

North Delhi Municipal Corporation & Ors.  
WITH

Respondent(s)

N. S. Yadav & Ors

Versus

Applicant(s)

Commissioner, North MCD & Ors.  
WITH

Respondent(s)

Chanakya Place Residents  
Welfare Association

Versus

Applicant(s)

Govt. of NCT of Delhi & Ors.  
WITH

Respondent(s)

Rajeev Kumar

Versus

Applicant(s)

Central Pollution Control Board & Ors.  
WITH

Respondent(s)

Rupesh Pethe

Versus

Applicant(s)

State of M.P. & Ors

Respondent(s)

Date of hearing: 18.07.2019

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

For Applicant(s):

Mr. Vikas Bapurao Rakhi.P, Advocate in item No.9  
Mr. Alakh Alok Srivastava in item No. 10  
Mr. Rahul Choudhary, Ms. Gitanjali Sudhar, Advocates in item No.7  
Ms. K.Gayatri, Advocate in item No. 6

For Respondent (s):

Mr. Balendu Shekhar, Advocate for NDMC  
Mr. Rajkumar, Mr. Birja Mahapatra, Mr. Narender pal Singh, Mr. Dinesh Jindal Ms. Pooja Kalra, Advocate for DPCC  
Mr. Sumeet Pushkarna, Advocate for DJB

Mr. Vikas Garg, Counsel for Delhi Police along with Ms. Aishani Nabain  
Ms. Shamskravish Rein, Ms. Maheravish Rein, Mr. Aldanish Rein, Advocates for DSIIDC  
Mr. Kush Sharma, Advocate for DDA  
Ms. Twisha Issar, Mr. Ayush Acharjee, Advocate for PCC  
Ms. Sakshi Popli, Advocate for NDMC

**ORDER**

1. The issue for consideration is compliance of the judgment by Hon'ble Supreme Court in *M.C. Mehta vs. Union of India & Ors: (2004) 6 SCC 588*, paragraph 54-57, directing shifting/closing of industrial activities falling under category 'F' of the Master Plan of Delhi, 2001. Aggrieved by the inaction of the authorities on the subject, petitions were filed in the Delhi High Court alleging that unauthorized industrial activities which included handling of plastic and its illegal disposal by way of burning, etc. were continuing. The proceedings were transferred to this Tribunal. Thereafter more cases were directly filed before this Tribunal.
2. The Tribunal dealt the matter by way of final order dated 12.12.2013 noting that environmental degradation and havoc was being caused by unscientific handling of plastic on the environment. Plastic clogs the natural cycles - both physico chemical as well as biological. Recklessly littered plastic was injurious even to the animals which devour it. There is temptation to dispose the plastic by burning which generates fumes containing toxic volatile emissions including greenhouse gases such as Methane and Carbon dioxide. Plastic

combustion also generates airborne particulate emissions (soot) and solid residue ash (black carbonaceous material). It was observed that several studies have demonstrated that soot and solid residue ash poses high potential of significant health and environmental concerns. Soot so generated contains Volatile Organic Compounds (VOCs), semi-VOCs, smoke (particulate matter), particulate bound heavy metals including Lead, Cadmium, Chromium and Copper, Polycyclic Aromatic Hydrocarbons (PAHs), Polychlorinated Dibenzofurans (PCDFs) and Dioxins, which have the ability to travel long distances, depending on prevailing atmospheric conditions before it drops back to earth and thus, enters into the food chain. Composition of by-products of plastic combustion with respect to its type and concentration depends on the combustion temperature and the flame residence time. A study of the combustion of Polyethylene (both Low and High Density Polyethylene) at different operating conditions detected more than 230 VOCs and semi-VOCs, especially Olefins, Paraffin, Aldehydes and light hydrocarbons including benzo(a)Pyrene and 1,3,5 Trimethyl benzene. Significant amount of pollutants of environmental and health concern including carcinogens such as PAHs, nitro-PAHs and Dioxins have been identified in the airborne particulate emissions. Further, these particulates have been found to be highly mutagenic. PAHs in the range of 8-340 ppm have been observed in the soot which is significant enough to cause cancer. Di-(2-ethylehexyl) phthalate (DEHP), one of the compounds among the plasticizers used in plastic manufacturing, has been described by US Environmental Protection

Agency (USEPA) as a probable human carcinogen, a potential endocrine disruptor and is believed to be harmful by inhalation, generating possible health risks and irreversible effects. The Tribunal directed the authorities to perform their statutory duty and deal with the matter.

3. In spite of lapse of more than fourteen years after the order of the Hon'ble Supreme Court and more than four and a half year after the order of this Tribunal, when the matter was reviewed on 20.07.2018, the Tribunal found that unregulated handling of plastic continued unabated. Orders of this Tribunal dated 12.12.2013, 24.12.2014, 24.02.2015, 06.12.2016, 10.01.2017 and 10.10.2017 remained on paper in absence of sincerity of the authorities who were expected to take steps in the matter. Illegal burning of plastic continued, shown by photographs produced before this Tribunal.
4. This Tribunal directed the Chief Secretary, Delhi to co-ordinate with the concerned authorities and ensure compliance of directions of this Tribunal at the ground level forthwith. Four months' time was given for doing so. The Chief Secretary, Delhi was also directed to indicate the persons accountable for their failure against whom appropriate penal action could be taken.
5. The matter was thereafter reviewed on 03.12.2018 in the light of the above background. It was again noted that in violation of order of the Hon'ble Supreme Court passed more than 14 years ago, unregulated handling of plastic including burning thereof was continuing

imperiling the health of the citizens and the environment. The report from authorities placed on record itself shows carrying on of illegal activities and creation of unhygienic/unhealthy conditions. It was noted that large scale degradation of environment was taking place. The Tribunal directed the Government of Delhi to deposit a sum of Rs. 25 Crores towards cost of damage to the environment and furnish performance guarantee in the like amount with the CPCB. It was further directed that if the failure continues, the Delhi Government will be liable to pay a further amount of Rs, 10 Crore per month as a coercive measure for compliance of the order of this Tribunal. The amount is to be spent on restoration of the environment.

6. According to the report filed by the CPCB, the Delhi Government has not deposited the amount. Even though an action taken report has been filed, the action hardly meets the magnitude of violation. We are informed that a sum of Rs. 6,40,000/- has been recovered for release of 150 impounded vehicles found engaged in transporting pollutants. There is no serious exercise of assessing the cost of damage to the environment and the cost of restoration. It is also not clear whether the polluting activities have been stopped. The amount to be recovered on 'Polluter Pays' has to commensurate with the damage caused and adequate to meet the cost of restoration and deterrent so that polluting activity does not remain profitable which admittedly has not happened. The identified polluters are said to be more than 30,000 while the alleged action is hardly against 150 vehicles. The action taken against identified polluters by way of



prosecution and recovery of deterrent compensation is hardly adequate for meaningful enforcement of rule of law and protection of environment and public health. The Tribunal has repeatedly noted the inaction against polluters especially in the context of Delhi.<sup>1</sup>

7. We give last opportunity to the Delhi Government to deposit the amount and furnish the performance guarantee as earlier directed and comply with the order of the Hon'ble Supreme Court and of this Tribunal dated 03.12.2018. Let a further compliance affidavit be filed giving details of the action taken month wise and showing compliance of the order dated 03.012.2018 which refers to earlier orders also. The applicants are at liberty to furnish status of non-compliance to the Chief Secretary, Delhi within one week and response to such issues be also furnished.

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<sup>1</sup> i) All India Lokadhikar Sangathan v. Govt. of NCT of Delhi & Ors. ( Execution Application No.11/2017 in O.A. No.159/2013, order dated 16.10.2018) The Tribunal directed Delhi Government to pay a sum of Rs. 50 Crores as compensation for damage to the environment thereby continuing stainless steel pickling industries covered in prohibited/negative list of industries as per Master Plan of Delhi, 2021.

ii) Mayank Manohar & Paras Singh, Reporter Times of India Vs. GNCTD & Ors. (Original Application No. 601/2018, order dated 24.01.2019) "it is necessary to take prompt measures to prevent further damage to the environment and to uphold the rule of law in the manner suggested by the two members Committee. This may require exercise of statutory power to prohibit polluting activity, initiate prosecution, and recover cost of damage to the environment."

iii) Westend Green Farms Society Vs. Union Of India & Ors. (Original Application No. 400/2017, order dated 02.11.2018) The Tribunal observed that "Liberty to enjoy celebrations is welcome but not without any responsibility or accountability for protection of peace and comfort of others. If enjoyment by creating noise pollution, air pollution, water pollution, obstructing free flow of traffic irreversibly damages our limited natural resources in violation of law, such enjoyment has to be checked. Avoiding wasteful expenditure, adversely affecting the health and welfare of fellow citizens, is against the spirit of Fundamental Duties under the Article-51A of the Constitution of India. Enjoyment of few at the cost of happiness of others is neither the culture of this country nor consistent with the constitutional values"

iv) Mahesh Chandra Saxena Vs. South Delhi Municipal Corporation & Ors. (Original Application No. 148/2016, Order Dated 27.11.2018) The Tribunal stated that, "there is thus clear failure on the part of the DJB as well as by Chief Secretary Delhi to carry out the directions of this Tribunal and also to utilize the treated waste water."

v) News item published in "The Times of India" Authored by Paras Singh Titled "Ignoring NGT orders, Mayapuri 'graveyard' spews toxic fumes" (Original Application No. 807/2018, Order Dated 29.01.2019), The Tribunal stated that, "Despite severely polluting activities, the statutory authorities are consistently failing to perform their duties of recovering damages caused to the public health and to environment and have chosen to shut their eyes in breach of trust reposed by law. Higher authorities are complacent and not taking any punitive action for such blatant failure jeopardizing health and welfare of citizens."

8. The Chief Secretary, Delhi may remain present in person on the next date of hearing.

List for further consideration on 05.08.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 18, 2019  
Execution Application No. 11/2017  
IN O.A. No. 159/2013 other connected matters  
AK

