

ITEM NOS.302 & 304

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

((1) REPORT NO. 106 SUBMITTED BY EPCA (SPECIAL REPORT ON POLLUTION HOT SPOTS IN NCR WITH REQUEST FOR URGENT DIRECTIONS TO IMPROVE ENFORCEMENT AND POLLUTION CONTROL)IN RE: STUBBLE BURNING

(2) IA NO. 127792/2017 (DISPOSED OF) (APPLN. FOR DIRECTIONS FILED BY A.C.)

(3) IA NOS. 158128 AND 158129/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF DR. KAUSHAL KANT MISHRA)IN RE: DIESEL VEHICLES

(4) IA NO. 79444/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF EAST DELHI MUNICIPAL CORPOATION)

(5) IA NO. 177432/2018 (APPLN. FOR DIRECTIONS ON B/O NORTH DELHI MUNICIPAL CORPORATION)

(6) IA NO. 142872/2019 (APPLN. FOR MODIFICATION OF ORDERS DT. 16.12.2015 AND 31.03.2016 ON B/O DY. COMMISSIONER OF POLICE)IN RE: PARKING POLICY

(7) REPORT NO. 104 SUBMITTED BY EPCA (REGARDING PARKING PLANS FOR KRISHNA NAGAR, KAMLA NAGAR, TECHNOLOGY FOR PARKING MANAGEMENT AND PLANS FOR LAST MILE CONNECTIVITY)IN RE: THREE WHEELERS

(8) IA NO. 176097/2018 (APPLN. FOR CLARIFICATION ON B/O BAJAJ AUTO LTD. ALONGWITH REPORT NOS. 95 AND 105 SUBMITTED BY EPCA)

(9) IA NO. 39622/2019 (APPLN. FOR INTERVENTION IN IA NO. 176097/2018 ON B/O PIAGGIO VEHICLES PVT. LTD.)

(10) IA NOS. 72210 AND 72236/2018 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O NYAY BHOOMI)

(11) IA NOS. 119813 AND 119815/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O BHARTIYA TIPACHIYA CHALAK SANGH)

(12) IA NO. 110238/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF DELHI METRO RAIL CORPORATION LTD.)

WITH

SLP(C) No. 13208/1998 (XVI)

WITH

C.A. No. 9780-9782/2018 (XVII)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 127600/2018

FOR EX-PARTE AD-INTERIM RELIEF ON IA 127603/2018

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 24860/2019

IA No. 127603/2018 - EX-PARTE AD-INTERIM RELIEF

IA No. 127600/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

C.A. No. 9783/2018 (XVII)

(IA No. 118214/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 88157/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 163563/2018 - CLARIFICATION/DIRECTION

IA No. 127540/2018 - EX-PARTE AD-INTERIM RELIEF

IA No. 127539/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT

IA No. 118211/2019 - INTERVENTION APPLICATION

IA No. 69892/2019 - INTERVENTION/IMPLEADMENT

IA No. 97168/2019 - INTERVENTION/IMPLEADMENT

IA No. 97157/2019 - INTERVENTION/IMPLEADMENT

IA No. 163563/2018 - INTERVENTION/IMPLEADMENT

IA No. 97150/2019 - INTERVENTION/IMPLEADMENT

IA No. 121389/2019 - INTERVENTION/IMPLEADMENT

IA No. 97140/2019 - INTERVENTION/IMPLEADMENT

IA No. 119161/2019 - INTERVENTION/IMPLEADMENT

IA No. 97130/2019 - INTERVENTION/IMPLEADMENT

IA No. 97119/2019 - INTERVENTION/IMPLEADMENT

IA No. 89253/2019 - INTERVENTION/IMPLEADMENT

IA No. 99434/2019 - INTERVENTION/IMPLEADMENT

IA No. 99431/2019 - INTERVENTION/IMPLEADMENT)

C.A. No. 9785/2018 (XVII)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA

133034/2018, FOR EX-PARTE AD-INTERIM RELIEF ON IA 133038/2018

FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 157075/2018

IA No. 157075/2018 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 133038/2018 - EX-PARTE AD-INTERIM RELIEF

IA No. 133034/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

Diary No(s). 48292/2018 (XVII)

(IA FOR PERMISSION TO FILE APPEAL ON IA 15065/2019

FOR CONDONATION OF DELAY IN FILING APPEAL ON IA 15067/2019

FOR EX-PARTE STAY ON IA 15068/2019

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA

15070/2019

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA

15071/2019

IA No. 15067/2019 - CONDONATION OF DELAY IN FILING APPEAL

IA No. 15068/2019 - EX-PARTE STAY

IA No. 15070/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT

IA No. 15071/2019 - PERMISSION TO FILE ADDITIONAL

DOCUMENTS/FACTS/ANNEXURES

IA No. 15065/2019 - PERMISSION TO FILE APPEAL)

C.A. No. 4906-4907/2019 (XVII)

(IA No. 58284/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

C.A. No. 3610-3611/2019 (XVII)

Diary No(s). 12263/2019 (XVII)
(FOR ADMISSION and IA No.67873/2019-PERMISSION TO FILE APPEAL and
IA No.67874/2019-CONDONATION OF DELAY IN FILING APPEAL and IA
No.67876/2019-APPROPRIATE ORDERS/DIRECTIONS and IA No.67875/2019-
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 04-11-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE DEEPAK GUPTA

Counsel for the parties

Mr. Harish N. Salve, Sr. Advocate (A.C.)
[Not Present]

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Ms. Mahima C. Shroff, Adv.
Ms. Yashika Verma, Adv.
Ms. Riya Thomas, Adv.

Mr. K. V. Vishwanathan, Sr. Adv.
Ms. Pritha Srikumar Iyer, Advocate
Mr. Arun Srikumar, Adv.
Ms. Mansi Binjrajka, Adv.

Mr. Devadat Kamat, Sr. Adv.
Mr. Hardik Luthra, Adv.
Mr. Ram Parashar, Adv.
Mr. Alok Shukla, Advocate

Mr. Sanjiv Sen, Sr. Adv.
Mr. Praveen Swarup, AOR
Mrs. Puja Kalra, Adv.
Mr. B.C. Santosh Kumar, Adv.
Mr. Suvesh Kumar, Adv.

Mr. Anil Grover, AAG
Dr. Monika Gusain, Adv.
Ms. Noopur Singhal, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kr. Visen, Advocate

Mr. Pradeep Misra, Advocate
Mr. Suraj Singh, Adv.

Ms. Ruchi Kohli, Advocate

Ms. Garima Prashad, Adv.
Mr. G. S. Oberoi, Adv.
Mr. Mohit Kumar Bansal, Adv.

Mr. Ajay Bansal, Adv.
Mr. Praveen Swarup, Adv.
Mr. Suvesh Kumar, Adv.
Ms. Puja Kalra, Adv.
Mr. Suvesh Kumar, Adv.

Mr. Pranav Sachdeva, Advocate
Ms. Neha Rathi, Adv.

Mr. Jatin Bhardwaj, Adv.

Ms. Monika Arora, Adv.

Mr. Akash Deep Gupta, Adv.

Mr. Mohit D. Ram, Advocate

Mr. Vishal Khanna, Adv.

Mr. Nitish Pathania, Adv.

Mr. Tarun Johri, Advocate

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Petitioner-In-Person

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Mr. Yoginder Handoo, AOR

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Mr. Ashish Rana, AOR

Mr. Satya Mitra, AOR

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

I.A. NO.130216 & 130219

These applications were mentioned for listing.

List after two weeks.

REPORT NO. 106 SUBMITTED BY EPCA (SPECIAL REPORT ON POLLUTION HOT SPOTS IN NCR WITH REQUEST FOR URGENT DIRECTIONS TO IMPROVE ENFORCEMENT AND POLLUTION CONTROL)
IN RE: STUBBLE BURNING

We have heard Mr. Bhurelal, who has pointed out about irrigation.

We have also heard some experts from the Ministry and the IIT and learned senior counsel for the parties and Amicus Curiae.

Today everyone is concerned about level of pollution in Delhi and NCR region. This is not something new, every year this kind of piquant situation arises for a substantial period. It is compounded by the fact that year to year in spite of various directions issued by High Court, other authorities including this Court the State Governments, Government of NCT of Delhi and the corporations of Delhi and nearby States are not performing their duties as enjoined upon them. This is a shocking state of affairs in which we are put as on today. This is blatant and grave violation of right to life of the sizeable population by all these actions and the scientific data which has been pointed out indicates that life span of the people is being reduced by this kind of pollution which is being created and that people are being advised not to come back to Delhi or to leave the Delhi due to severe pollution condition which has

been created. There cannot be large scale exodus. People have to perform their duty in Delhi also and people cannot be evacuated from Delhi being a capital city. We are at a loss to understand why we are not able to create a situation in which this kind of pollution does not take place, that too in a routine manner every year. Obviously, it is writ large that the State Governments, Government of NCT of Delhi and civic bodies have miserably failed to discharge their liability as per the directive principles of State Policy which have found statutory expression, they are being made statutory mockery and also the directions of this Court and High Courts in this regard are being violated with impunity.

Time has come when we have to fix the accountability for this kind of situation which has arisen and is destroying right to life itself in gross violation of Article 21 of the Constitution of India. No farmer can be said to be having a right under the guise that he is not having sufficient time to use the stubble for the purpose of manure, since they have less time between two crops, cutting and sowing of next crop. As such, they cannot by burning it in their fields, put life of sizeable population in jeopardy.

It is apparent from the satellite images which has been produced before us for the period 30.10.2019 to 04.11.2019. The satellite image clearly indicates that in Punjab there is widespread stubble burning which has taken place as compared to Haryana, in which only in four districts it has taken place. There is some burning in Western U.P. also. It could not have taken place even in a singular district or gram panchayat area as we live in a civilized country in which such kind of activities which create

such menacing pollution not only in the area concerned but to the neighbouring States also, by ill-effects of that people cannot be left to die or to suffer various ailments.

Everybody has to be answerable including the top state machinery percolating down to the level of gram panchayat. The very purpose of giving administration power up to the panchayat level is that there has to be proper administration and there is no room for such activities. The action is clearly tortuous one and is clearly punishable under statutory provisions, besides the violation of the Court's order. In the circumstances, as widespread stubble burning has taken place, we direct the States of Punjab and Haryana and adjoining State of Uttar Pradesh where there is blatant violation which has taken place, to halt it. We direct the Chief Secretaries of the States of Punjab, Haryana and Uttar Pradesh to be present in this Court on 06.11.2019 and Chief Secretary of Government of NCT of Delhi.

We direct the Chief Secretaries of the State Governments, District Collectors, Tehsildars, Director General, IG/SP and other police officers of the area of concerned police station and the entire police machinery to ensure that not even a single incident takes place of stubble burning henceforth. If it is found that any stubble burning has been made not only that person doing it will be hauled up for the violation of the order passed by this Court but the entire administration, right from the Chief Secretary, Commissioner, Collector and all other concerned functionaries and Panchayats. Gram Pradhan/Sarpanch Panchayat are also directed to ensure that no such stubble burning takes place.

Let the State Governments of Punjab, Haryana and Uttar Pradesh and officials also explain that why they should not be asked to pay the compensation for tortious liability as they have acquiesced and due to their failure in preventing stubble burning which is in utter violation of the Public Trust doctrine, why they should not be held liable to compensate, and also the incumbents who are burning the stubble in spite of clear restrictions imposed by this Court and statutory prohibition.

We also direct the Sarpanch of each and every Panchayat and SHO of the concerned area to prepare inventory of the incumbents who have burnt the stubbles in their fields. We also direct the Sarpanch, Gram Panchayat as well as the concerned police of the area and local administration including the Collector and all subordinate authorities to ensure that no further stubble burning takes place. In case, any stubble burning takes place responsible machinery from top to bottom and Sarpanch, Gram Panchayat shall be liable for tortuous act and for not complying with the order passed by this Court and let the Gram Panchayat also advise forthwith the villagers not to involve in stubble burning any more and take appropriate action.

We also direct the State Governments, Central Government as well as the Government of NCT of Delhi to take immediate steps to take care of the emergent situation due to air pollution which has taken place. No doubt about it that everybody knows the situation, let the steps be taken forthwith with the help of the experts. We direct the Government of NCT of Delhi as well as various

corporations to work in tandem and to see that waste and garbage which is contributing to air pollution is tackled at war level. The efforts should be made right from today without any loss of time.

Let the EPCA consider as it was suggested by Ms. Aprajita Singh, learned senior counsel and the learned Amicus Curiae that diesel vehicle should not enter the Delhi. Let the EPCA immediately take the steps in this regard as may be considered appropriate as it has the power to do the needful taking care of the emergent situation.

With respect to demolition and construction activities we direct that no demolition and construction activities take place in Delhi and NCR region. In case it is found that such activity is done, the local administration as well as the municipal authorities including the Zonal Commissioners, Deputy Zonal Commissioners shall be personally held responsible for all such activities. They have to act in furtherance of the Court's order and to ensure that no such activity takes place.

We are informed that use of coal based industries have been stopped. In case any violation of this is found the concerned person including Zonal Deputy Commissioner would be liable for violation of the order of this Court and liable to be punished for contempt of Court.

It was also pointed out by Mr. Sanjiv Sen, learned senior counsel, that during odd/even scheme in Delhi more use of two wheelers and three wheelers has taken place and they are being plied more causing equal pollution, as such no useful purpose is

being served by stopping the use of certain vehicles only on the basis of odd and even numbers. He has also pointed out that it would be appropriate to stop the use of diesel vehicle, in case it is necessitated as the diesel vehicles cause more pollution as compared to petrol and CNG vehicles. Let the Government of NCT of Delhi explain this aspect and file the data in this regard in the Court on the basis of the previous experience and whether if three wheelers and taxis are plying more on road during such restriction and relevant data be placed.

During Odd/Even Scheme what is the difference being caused by stopping use of four wheelers when various other contributory factors are not taken care of by Government of NCT of Delhi. An affidavit has been filed by the Ministry of Environment and Forest, in which in paragraph 10 following facts have been mentioned. Air quality, winter inspections 2019-20 status till 31.10.2019 is extracted hereunder:-

"AIR QUALITY WINTER INSPECTIONS' (2019-2020) STATUS – till 31.10.19

Total complaints lodged : 1646

Total inspections – 249

Major Sources reported

C&D	Open dumping of waste/garbage	Unpaved Road/Pit	Road Dust	Garbage Burning	Traffic Congestion
496	407	217	154	126	81

Prominent districts reporting above mentioned major violations :

Source	Delhi	NCR
C&D	<ul style="list-style-type: none"> • New Delhi District (10.3%) • East district (9.8%) • West district (8.2%) 	<ul style="list-style-type: none"> • Noida (12%) • Faridabad (11.7%) • Gurugram (South) (10.9%) • Ghaziabad (8.5%)
Open dumping of waste/garbage	<ul style="list-style-type: none"> • North East district (17.44%) • East district (14.98%) • South district (7.8%) 	<ul style="list-style-type: none"> • Noida (9.58%) • Faridabad (8.84%) • Gurugram (South) (6.14%) • Ghaziabad (5.4%)
Unpaved Road/Pit	<ul style="list-style-type: none"> • South West (10.59%) • East and south district (9.67%) • North West district (7.37%) 	<ul style="list-style-type: none"> • Ghaziabad (12.44%) • Faridabad (9.21%) • Noida (8.75%)
Road Dust	<ul style="list-style-type: none"> • East district (22.72%) • North West district (7.14%) • North district (5.8%) 	<ul style="list-style-type: none"> • Ghaziabad (16.23%) • Meerut (11.6%) • Noida (8.44%) • Sonipat (5.84%)
Garbage Burning	<ul style="list-style-type: none"> • North West district (13.5%) • North district (10.3%) • North east district (9.5%) 	<ul style="list-style-type: none"> • Gurugram (South) (15.1%) • Noida (12.7%) • Faridabad (9.5%)
Traffic Congestion	<ul style="list-style-type: none"> • North district (23.5%) • East district (13.6%) • Central district (11.1%) 	<ul style="list-style-type: none"> • Ghaziabad (4.9%) • Noida (3.7%)

Major polluting activities defined in identified hotspot regions

1. Jahangirpuri

- Open dumping of garbage & C&D
- Traffic congestion

2. Rohini

- Road dust

- Open dumping of garbage
3. **Bawana**
 - C&D & Unpaved roads
 - Open dumping of garbage & road dust
 4. **Ashok Vihar**
 - Open dumping of garbage & C&D
 - Road dust
 5. **Wazirpur**
 - Open dumping of garbage
 - C&D
 6. **Vivek Vihar**
 - Traffic congestion
 - C&D
 - Open dumping of garbage & road dust
 7. **Anand Vihar**
 - C&D
 8. **Punjabi Bagh**
 - C&D
 9. **Mundka**
 - Unpaved roads
 - C&D and industrial waste dumping
 10. **Narela**
 - Industrial waste – dumping & burning
 - Garbage – dumping & burning
 11. **Okhla**
 - Open dumping of garbage
 - Open dumping of industrial waste and C&D
 12. **Dwarka**
 - C&D
 - Unpaved road
 13. **Mayapuri**
 - Unpaved road

- Road dust
14. **Sahibabad**
- Unpaved road
 - Road dust
 - Open waste dumping
 - C&D
15. **Udyog Vihar**
- Open dumping of garbage
 - Unpaved roads"
16. **Faridabad**
- C&D
 - Open dumping of garbage
 - Unpaved roads
 - Open burning
 - Industrial waster dumping

As per the Air Quality Inspection Construction and demolition activities in Delhi/NCR region causing damage in NOIDA, Faridabad, Gurugram, Ghaziabad as well as instances of Delhi have also been mentioned.

1. Construction and demolition
2. There is open dumping of waste/garbage.
3. Unpaved road/pit.
4. Road dust.
5. Garbage burning.
6. Traffic congestion.

We direct that construction, demolition and activities be stopped forthwith as well as garbage burning. In case, any person is found in construction and demolition activity and garbage

burning in Delhi and NCR region, he/she shall be penalized. Any person is doing construction and demolition activity in violation of this order, shall be penalized with Rs.1 Lac for such activity. For garbage burning he/she shall be penalized with Rs.5,000/- and besides liable for violation of the order passed by this Court to be dealt with in accordance with law.

With respect to open dumping of waste and garbage, we direct the Government of NCT of Delhi as well as the concerned Municipal Corporation to chalk out immediate plan and to ensure that waste and garbage to be removed to safe places forthwith and also to ensure that no open dumping takes place. We direct Zonal Deputy Commissioner to be responsible with other officers in this regard. Let road-maps be prepared so as to provide proper amenities in order to prevent open dumping of waste and garbage, and be placed before this Court within four weeks.

For taking care of the road dust let water sprinklers/dust suppressors be used on the roads. An IIT expert suggested about the appropriate water pressure for the sprinklers. At what pressure water should be sprinkled so as to reduce the pollution and dust so that it does not add to the pollution. Let the Corporations act on advice of the expert of the IIT. Such roads where traffic congestion is more, let traffic plan be also prepared in such a manner so that there is no extra burden on a particular road so that traffic congestion is taken care of. It is for the concerned traffic authorities to take immediate steps in this regard.

Since we are fixing the liability on the person responsible for inaction at the village level as well as three States in the

NCR regions as well as Delhi, let the widest publicity by all means of publication i.e. Television, Media, newspapers, Radio be made. In Gram Panchayats by beat of drums also and other modes to ensure that villagers are made aware of their responsibility and liability towards the other humans so that they do not involve in such acts. Let the Gram Panchayat, police station, district and taluk levels by the concerned administration take steps in this regard. Let the State Governments also take the requisite steps to extinguish the stubbles which are burning and for that let State Level High Level Committee meet forthwith and take appropriate decision and implement it. Steps taken be informed to this Court on 06.11.2019 by the concerned Chief Secretaries of the three States and Government of NCT of Delhi.

Let the concerned authorities of EPCA meet forthwith and take a call in this regard with respect to industrial activities which are causing pollution how to control it. We also direct all pollution control Boards of three States and Government of NCT of Delhi that polluting industries/activities against norms are put to halt forthwith.

It was also submitted by M/s. Sanjiv Sen and Gopal Sankaranarayanan, learned senior counsel that in certain States generators are also being used which increase pollution mainly due to cut off of the electricity supply. Generators in Delhi also add to pollution in Delhi as well as in NCR region. Let the State Governments and Government of NCT of Delhi ensure that electricity is not cut so that generators are not used and let no generators be used till next date of hearing except in emergency/healthcare

services.

Let the State Governments, NCT of Delhi and also the Government of India prepare a road map for preventing this kind of situation in future and be placed before this Court, within three weeks. Let the Action Taken Report be submitted within four weeks.

Directions/order to be effective unless otherwise ordered.

List on 06.11.2019 at 3.30 P.M.

REST OF THE MATTERS

List on 08.11.2019.

(NARENDRA PRASAD)
COURT MASTER

(PRADEEP KUMAR)
COURT MASTER