

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

**Original Application No. 21/2014
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**

Present:

Applicant :

**Mr. Sanjay Upadhyay, Adv.Ms. Upama Bhattacharjee
and Mr. Saumitra Jaiswal, Adv.
Mr. V. Shekhar, Sr. Adv, Mr Arun K. Shukla, Mr.
Sumit Sinha and Mr. Shashank, adv for UFLEX
Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal,
LO for Delhi Pollution Control Committee
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
Dr. Dipankar Saha Addl. Director Central Pollution
Control Board
Mr. I. K. Kapila, Adv
Mr. Pradeep Mishra and Mr. Daleep Dhyani, Adv
Mr. Raja Chatterjee, Mr. Chanchal Kr. Ganguli, Adv.
for State of West Bengal
Mr. Rajkumar, Adv with Mr. Bhupender L.A for CPCB
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. and Pritaka, Adv for NDMC
Mr. Raj Kumar, Adv. with Mr. Bhupender Kumar, LA
for Central Pollution Control Board
Mr. Mukesh Verma and Mr. Pawan Kr. Shukla, Adv.
Mr. Mukul Singh, Adv. for Ministry of Environment,
Forest and Climate Change
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar,
Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Rajiv Bansal, Sr. Adv, Mr. Kush Sharma and Mr.
Lalit Mohan, Adv. for Delhi Development Authority
Mr. Archit Sharma, Ms. Satamita Ghosh and Mr.
Rahul Singhal, 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, Adv. and Ms. Prity, Adv. for CECB
 Mr. Anchit Sharma, Mr. Adit Pratap Singh and Mr. Dipankar Wadhwa, Adv.
 Mr. Om Prakash, Adv. for Railways
 Mr. Edward Belho, AAG, K. Luikang Michael and Ms. Ms. Hoineithiam Adv. For Nagaland.
 Ms. Priyanka Swami, Adv. for Ghaziabad Nagar Nigam.
 Mr. Gautam Singh, Mr. Rudreshwar Singh Adv. for BSPCB
 Mr. Gautam Singh and Mr. Sohoeab Alam, Adv. for State of Bihar
 Mr. Balendu Shekhar, Adv., Mr. Sriansh Prakash, Mr. Mr. Rajkumar Maurya for East Delhi Municipal Corporation
 Mr. Surekh Kant, Adv for Mr. Ashish Rana, Adv
 Mr. Shiv Mangal Sharma (AAG), Ms. Shikha Sandhu & Mr. Saurabh Rajpal, Adv. for State of Rajasthan and RSPCB
 Mr. K.V. Jagdishvaran, Mr. Bhupesh Narula & G Indira, Adv. for UT of Admanan and Nicobar Administration
 Mr. Naginder Benipal, PPCB
 Dr. Sandeep Singh, Adv., Mr. Utkarsh Sharma and. for State of Uttar Pradesh
 Mr. D. Rajeshwar Rao, and Mr. Abhinav Srivastava, Adv. for Delhi Police with Mr. Vijay Singh DCP Traffic
 Ms. Puja Kalra, Adv. for SDMC
 Mr. Keshav Chandra, Secretary, GNCTD, Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee, Dr. M P George, Sr. Secretary, Mr. Dinesh Jindal, L.O. Delhi Pollution Control Committee, Dr. Anil Kumar, Director, GNCTD

Date and Remarks	Orders of the Tribunal
<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>We have heard the Learned counsel appearing for various stakeholders, applicants including the NCT Delhi, Central Pollution Control Board, Delhi Pollution Control Committee and the Learned counsel appearing for all the Pollution Control Boards of the State of Uttar Pradesh, State of Rajasthan, State of Haryana and State of Punjab. It is fairly conceded before us by the Scientists of the Central Pollution Control Board and Delhi Pollution Control Committee and all the officers from the different boards and the officers of the NCT Delhi that rain would result in automatic fall in pollutants level of the ambient air quality. They state that the sprinkling of water thus is one of the best means to reduce the pollutants in case of environment emergency. They also submit that diesel vehicles and two wheelers/two stoke engines are much</p>

	<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>more serious contributors of air pollution rather than the petrol operated cars.</p> <p>According to the Central Pollution Control Board, vehicular pollution contributes nearly 20% of the total air pollution load in NCT Delhi and out of these 20% the 30% contributions is by two wheelers. Accordingly to them firstly the two wheelers are much more in number than other class of vehicles and secondly they emit serious pollutants like Carbon Monoxide and Hydro Carbon which are not emitted or negligibly emitted by the petrol vehicles. It is further stated that the structural construction activities, carriage of construction material and burning of waste and crop residue are the other major components of air pollution in Delhi and NCR. The Learned counsel appearing for the NCT Delhi has submitted that in furtherance to the recommendation of Graded Response Action Plan (GRAP) and the judgment of the Tribunal, the Government of NCT Delhi is committed to implement odd-even scheme and it has also been directed by the Hon'ble High Court of Delhi in its order dated 09th November, 2017.</p> <p>He further submits that there should be a greater cooperation and coordination between the various Local Authorities, Executing Departments and Police for effective implementation of the directions issued by the Tribunal as well as the notification issued by the Central Government requiring NCT Delhi to implement GRAP. It is further stated that under GRAP, the odd and even scheme should be implemented automatically whenever PM₁₀ and PM_{2.5} increases 500 µg/m³ and 300 µg/m³</p>
--	---	---

<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>respectively for 48 hours. In other words, it is a measure which has to be taken as a part of complete mechanism provided for prevention and control of ambient air quality not only when there is environmental emergency or values are very severely bad.</p> <p>The precautionary principle places obligations upon all the Authorities including the Statutory Boards to anticipate extent and damage by adversely and highly polluted ambient air quality and should take precautionary and remedial measures at the appropriate stage and not wait for the crises to come.</p> <p>It is correctly said that prevention and precaution is a better remedy than dealing with the situation posing crises. It is emphasized by the Learned counsel appearing for the NCT Delhi that they are very sincere and would implement scheme in regard to the above notification and directions of the Tribunal and would not leave it optional. The compliance of law, particularly, where it serves the public interest and more so right to decent and clean environment which is a fundamental right of citizen. All other contentions must tilt in favour of achieving this goal rather than bringing excuses which would cause environmental degradation and damage to public health. The principle of inter-generational equity requires the present generation and particularly the State and its instrumentalities to ensure compliance with the directions which are aimed at protecting environment and public health. In this background and particularly the fact that the Scientist and Expert from various Boards, Organizations and Departments are add-idem that we</p>
---	--

	<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>proceed to pass the following directions:-</p> <ol style="list-style-type: none">1. The NCT Delhi would be free to implement 'Odd and Even' scheme as declared by it, but strictly subject to the condition that we state hereinafter. <p>In terms of the notifications, orders of the courts, Tribunal and GRAP, as and when the PM₁₀ and PM_{2.5} crosses values of 500 µg/m³ and 300 µg/m³ respectively, it shall be mandatory for NCT Delhi and all its Government Departments to implement odd and even without default and it shall not be optional for any officer of the Government or institutions to avoid these directions and non-compliance of notification.</p> <p>There shall be no exemption to any person, officer and individual and the two wheelers from the ambit and scope of odd and even scheme. They will be applied with equal rigour to all cases and all vehicles.</p> <p>However, the vehicles which are CNG operated would be saved from the implementation of odd and even scheme.</p> <p>The only vehicle which will be granted exemption are the vehicle which are used for emergent services like vehicles carrying municipal solid waste, Ambulance, Fire Brigades and Vehicles meant for carrying on emergent repair of electricity, other public services and the Government Vehicles of the dignitaries that has been granted exemption by the Government.</p> <p>Every entry point of Delhi shall be properly</p>
--	---	--

<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>managed by concerned department of NCT Delhi and the Police to ensure that there are no traffic jams on the borders of NCT of Delhi.</p> <p>All the State Governments i.e. State of Rajasthan, State of Haryana and State of Uttar Pradesh shall depute special force at the borders of NCT Delhi to ensure that no inconvenience is caused and congestions are avoided with aim to control air pollution even at those points.</p> <p>2. All the private transporters who are granted permits by the respective State Governments and NCT of Delhi shall during this emergency period and implementation of odd-even scheme would provide CNG buses in co-ordination with the Department of Transport and NCT of Delhi for carriage of passengers from different parts of NCT of Delhi to the central points, free of charges in discharge of their corporate social responsibility as they are the beneficiaries of the State's Largesse. It will be free for NCT of Delhi Department to issue such direction and demanding requisite number of buses keeping in view the fleet of buses for which permission has been granted and to which it will be in proper proportions.</p> <p>3. The DTC shall make every effort to ensure that all the buses it procures are CNG buses and the same are utilized for public transportation during the operation of odd-even scheme.</p> <p>4. Since it is commonly agreed and all the parties and stakeholders are ad-idem that sprinkling of water is</p>
---	---

**Item No.
01 to 05**

**November
11, 2017**

SS & RP

a substantial solution for reducing the pollution level in the ambient air quality in emergent situation, we direct that the same shall be implemented without default and delay in future and even during the coming week unless it rains by tomorrow or day after as per the reports of the metrological department. But we make it clear that no economic constraints ground will be entertained as a defense to sprinkling of water if the pollution levels rise beyond $PM_{10} - 700 \mu g/m^3$ and $PM_{2.5} - 400 \mu g/m^3$. We constitute a team of :-

- a. Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport;
- b. Mr. K.K. Dhaiya, Spl. Commissioner, Transport;
- c. Mr. S.M. Ali, Member Secretary, Delhi Pollution Control Committee and Spl. Secretary, Environment;
- d. Dr. Deepankar Shah, Additional Director, Central Pollution Control Board;
- e. Dr. Prashant Gargava, Additional Director, Central Pollution Control Board;
- f. Dr. M.P. George, Scientist 'D', Delhi Pollution Control Committee

Ms. Varsha Joshi, Secretary-Cum-Commissioner, Transport will be the Chairperson of the Committee.

5. This committee shall, from today onwards, collect the data of ambient air quality which shall be tested at least for 8 parameters including PM_{10} , $PM_{2.5}$,

	<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>Carbon Monoxide, Ozone, Ammonia, SO₂, NO₂ and Lead. A due compilation of at least two samples a day during the peak hours shall be maintained by this Committee continuously for a period of 10 days. We direct all these samples shall be analyzed at the laboratory of the Central Pollution Control Board and IIT Delhi.</p> <p>6. Besides collecting the data from the ambient air quality stations analyzed by the authorities/ Central Pollution Control Board, ambient air quality samples would be collected and subjected to analyze in both these laboratories and report submitted to the Tribunal on the next date of hearing.</p> <p>7. Despite direction of the Tribunal and the orders of the NCT of Delhi, still construction activities have been noticed in various complexes. It is brought to our notice that NHAI has been carrying on heavy earthmoving and construction activity at the crossing of turning of CWG Complex near Akshardham, construction work is going on at the NBCC project at Kidwai Nagar and this fact is not disputed. We issue notice to show cause to both these organizations as to why the exemplary fine/ cost be not imposed upon them and also why the Tribunal should not direct the officer responsible for violation of the Tribunal to be sent to civil imprisonment in accordance with the provision of Order 21 read with Section 19 and 26 of the National Green Tribunal Act, 2010. Reply to these notices should be filed before the next date of</p>
--	---	---

**Item No.
01 to 05**

**November
11, 2017**

SS & RP

hearing. It shall be duty of the NCT of Delhi and DPCC to serve the notices upon the concerned officers/ contractors of these organizations.

8. It is also pointed out that there are 13 Thermal Power Plants with a capacity of 11,000 MW in the radius of 300 km of NCT of Delhi. They are serious contributors of pollutants to the ambient air quality in Delhi. They contribute 80% of the Sulphate and 50% of Nitrogen to the receptor concentration. This adds to increase of pollutants of PM₁₀ and PM_{2.5} besides adding other pollutants to the ambient air quality. If emissions from these plants are controlled and or they are upgraded so as to meet strictly in accordance with the prescribed standards it could largely impact the improvement of ambient air quality in NCT of Delhi.

9. We direct the above Committee to submit a report in this behalf to the Tribunal and what precautionary and preventive measures should be taken. The order of the Tribunal dated 08.11.2017 and 09.11.2017 shall apply mutatis-mutandis to this order and all the directions contained in this order must be strictly adhered to.

10. All the corporations and public authorities from all the States of NCT of Delhi and surrounding areas shall ensure that there is no structural construction activity carried on till the next date of hearing.

11. We have already passed directions in relation of burning of waste and crop residue burning. By the next date every State should submit the report in

	<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>that behalf including all the local authorities of NCT of Delhi.</p> <p>12. All the corporations and the DDA is hereby directed to post special forces on the land fill sites (municipal solid waste land fill sites) to ensure that there is no fire of any kind from any of these sites. If any fire of the waste burning is brought to the notice of the Tribunal particularly in relation of the land fill sites, every officer incharge concerned under whose jurisdiction that the area shall fall would be liable to be proceeded against in accordance with the law besides imposition of environmental compensation in terms of Section 15 of the National Green Tribunal Act, 2010 upon the said Authority or Corporation.</p> <p>13. We direct NCT of Delhi to immediately reconsider its decision with regard to the parking charges. We are unable to appreciate what environmental impact it is likely to have particularly when the directions of the Tribunal with regard to construction, providing of parking areas, ensuring that those parking areas and parking buildings, multiple parking are used for parking in a regulatory manner and parking on the road sides is entirely discouraged. We do not have hesitation in noticing that corporation and the State authorities have failed to comply with those directions. The steps must be taken in a holistic manner to achieve the objective of protection of environment creating undue burden on a common man as no solution to environmental issues.</p>
--	---	---

<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>14. If cars are permitted to be registered and plied in Delhi then they must be provided with the parking space. For instance, the multiple parking at Sarojni Nagar remains empty which is undisputed fact and all the vehicles are permitted to be parked on the roads where some contractors collect money and add to congestion of traffic. All the Government Authorities, Corporations and NDMC should take immediate and effective steps to rectify these discrepancies and ensure better co-ordination between the Corporations, Government, Police, Departments and the contractors who are engaged for parking purposes.</p> <p>15. We also direct that in consultation with the Metrological Department, the Chief Secretary of Delhi would take an emergent meeting as and when there is a likelihood of severe pollution of the ambient air quality and definitely before it reaches the values of environmental emergency.</p> <p>16. The sample of ambient air quality shall be collected and analyzed particularly immediately after the rain if it so happens and report submitted to the Tribunal.</p> <p>17. We have already clarified that the industries dealing with essential services and goods eatable, subject to inspection by the officers, would be permitted to operate if their emissions are within the prescribed limits and they are non-polluting.</p> <p>18. The hybrid cars shall also stand exempted.</p> <p>19. We do not contribute to the principle stated at the</p>
---	---

	<p>Item No. 01 to 05</p> <p>November 11, 2017</p> <p>SS & RP</p>	<p>bar on behalf of NCT Delhi that the volatile ambient air quality value should be for a period of 48 hours or on 48 hours basis. It is bound to be more damaging to human health if a person or public at large is compelled to breath or even for 12 hours the values of which remain within 500 µg/m³ to 700 µg/m³ as against the prescribed value of 100 µg/m³. Thus we direct that 48 hours may be relevant for determining average pollutant values, but not for taking emergent measures particularly when it cross 700 µg/m³.</p> <p>20. The Learned counsel appearing for NCT Delhi has informed that the site has already been provided for keeping the vehicles which are impounded/seized by the Police being 10 years old vehicles in the case of diesel and 15 years old in the case of petrol.</p> <p>21. We direct the Commissioner of Police, Delhi to ensure that vehicles which are violating the above directions of the Tribunal should be seized and compliance report be submitted to the Tribunal on the next date of hearing.</p> <p>List these matters on 14th November, 2017 the date already fixed.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (Dr. Jawad Rahim)</p>
--	---	---