

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWRIT PETITION(S)(CIVIL) NO(S). 13029/1985

M.C. MEHTA

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) (AIR POLLUTION) AND IMPLEMENTATION OF GRAP IV 1) I.A. Nos. 270761 AND 270763/2024 (APPLICATIONS FOR DIRECTION AND INTERVENTION) 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.) MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MR. SAURABH AGRAWAL ADVOCATES)

Date : 02-12-2024 This matter was called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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Mr. Ishank Ranjan, Adv.

Mr. Aditya N. Prasad, Adv./Court Commissioner
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Mr. Manan Verma, Adv./Court Commissioner
Mr. Pratyush Jain, Adv./Court Commissioner

Mr. Aditya Bharat Manubarwala, Adv./Court
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UPON hearing the counsel the Court made the following
O R D E R

1. We find that none of the NCR States, namely Delhi, Haryana, Rajasthan and Uttar Pradesh, have reported compliance with our earlier order regarding payment of subsistence amount to the construction workers. None of the NCR States have pointed out to us that even a penny has been paid so far. We direct the Chief Secretaries of these States to remain present through video conference on 5th December, 2024 at 3:30 p.m. In the meanwhile, the NCR States are free to file their compliance affidavits.

2. We make it clear that unless substantial compliance with actual payment of amounts to the construction workers is reported, we will have to consider of initiating an action under the Contempt of Courts Act, 1971 against the erring officers.

3. A compliance report dated 2nd December, 2024 is tendered across the Bar by Ms. Aishwarya Bhati, learned ASG, on behalf of the Commission for Air Quality Management (for short, "the Commission"). In paragraph 15 of the compliance report, the Commission has stated the mitigation measures which the Commission

has decided to implement. We direct the Commission to take further steps for communicating these mitigating measures to all the concerned Authorities and to coordinate an effort to ensure that these mitigating measures are actually implemented.

4. As regards the suggestion for modification of applicability of GRAP-IV, we will hear the parties on this aspect on 5th December, 2024 at 3:30 p.m. On that day, we will also examine the AQI levels and find out whether there is any downward trend. Some of the relaxations have been suggested by the Commission in the compliance report dated 2nd December, 2024. We will hear the parties on those measures and pass an appropriate order.

5. Very shocking things are revealed from all the five reports filed by the Court Commissioners. We find that there is a complete lack of coordination amongst the stakeholders like Municipal Corporation of Delhi, Delhi Government, Delhi Police, Police Authorities and Delhi Pollution Control Committee when it comes to implementation of all GRAP measures. It is the responsibility of the Commission to coordinate activities of all these entities with a view to ensure that GRAP measures are implemented. As far as the entry points are concerned, needless to add that all the entry points must be manned. However, it is for the Delhi Police to take a call and ensure that wherever more police presence is needed, necessary postings are made. The Delhi Police will make rational use of the Police force. As we have stated earlier, the Commission will have to coordinate the effort of all the agencies involved and ensure that adequate manpower is deputed at the entry points.

6. We must place on record the commendable work done by the Court Commissioners appointed by this Court. The reports tendered today show that they have even risked their lives and faced threats. They faced the situation for discharging their duties. Firstly, we refer to the report prepared by Shri Manan Verma and in particular paragraphs 2 to 4 of the report. We direct the Delhi Police to file a report to this Court setting out the action taken by the Police.

7. Secondly, we have also perused the report submitted by Shri Jatin Kumar and Ms. Savi Nagpal. We direct Shri Balram Singh, Station House Officer of Police Station Baba Hari Dass Nagar, to file his response as to what is stated in the report. We direct him to personally remain present in the Court on 5th December, 2024.

8. Another shocking thing which is revealed from the report is that the employees of the Toll Contractor by using WhatsApp, are communicating the movement of the Court Commissioners. The Delhi Government to immediately take an action in this regard. In the same report, an instance of stubble burning has been pointed out.

9. We cannot allow the members of the Bar to risk their lives as the reports indicate that some of them were subjected to threats. We, therefore, give an option to the Court Commissioners. Only those who want to continue the work entrusted to them can continue. Those Court Commissioners, who desire to continue to work, will send an e-mail to the Nodal Officer appointed by the Delhi Police. We direct that protection of armed policemen shall be given to

those Court Commissioners by the Delhi Police and the armed Police shall be given clear instructions that they will not communicate the movement of the Court Commissioners to anyone. We make it clear that it is the responsibility of the Delhi Police to ensure that the members of the Bar, who are acting as Court Commissioners, are adequately protected.

10. We direct the Commission to constitute a team of officers to go through reports submitted by the Court Commissioners and take up the issues of non-compliance with the concerned Authorities and stakeholders so that an action can be immediately initiated on the basis of the defaults pointed out by the Court Commissioners. On 5th December, 2024, we will consider the question of paying a reasonable remuneration to the Court Commissioners.

11. We have perused the earlier orders passed by this Court from time to time dealing with the issues which arose from October to January every year. We propose to go into all the aspects of pollution and try to find out permanent solutions. The permanent solutions will have to be found out in respect of stubble burning and various other causes of pollution. We request Ms. Aparajita Singh, learned Senior Advocate appointed as Amicus Curiae to prepare a note on these issues within a period of two weeks from today so that we can assign dates for considering these issues.

12. The Municipal Corporation of Delhi will also consider of suspending the golden passes issued to the vehicles whose entry has been prohibited under GRAP-IV.

13. We permit the Delhi Government to carry out the work of repair of sewage and work of repair of only those roads which are in bad condition. However, we make it clear that not a single vehicle shall be used for these purposes which is not permissible in accordance with law.

14. List the Petition on 5th December, 2024 at 3:30 p.m.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)