

Manish Bhatnagar vs Ministry Of Environment Forest And ... on 31 May, 2023

Author: Adarsh Kumar Goel

Bench: Adarsh Kumar Goel

Item No. 11

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 392/2023

Manish Bhatnagar

Applicant

Versus

Ministry of Environment, Forest & Climate Change

Respondent

Date of hearing: 31.05.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Manish Bhatnagar, Applicant in Person

ORDER

1. Grievance in this application is against air pollution in NCR Delhi.

Prayers in the application are for conducting scientific study and for preventing violation of environmental law. No alleged violator is impleaded as a party. The applicant has annexed order of the Hon'ble Supreme Court dated 13.01.2020 in (2020) 7 SCC 530, M.C Mehta v. UoI & Ors., whereby the Hon'ble Supreme Court dealt with the issue of air pollution in NCR particularly in the context of stubble burning and issued directions as follows:-

"57. In view of aforesaid, we inter alia reiterate and/or issue following directions:

(i) The decision taken by the High Level Committee constituted by this Court be placed on record along with comprehensive action plan and the action taken thereon so far. The decision taken by the High Level Committee constituted by this Court be placed on record along with comprehensive action plan and the action taken thereon so far.

(ii) (ii). With respect to preventing stubble burning, let a comprehensive plan be prepared and be placed before this Court including the action taken. Let Crop Residuary Management be prepared, Its use inter alia as fertilizer, cattle food and bio fuel be also worked out. Let the final decision be taken with respect to incentive and disincentive of Rs. 100/- per quintal and the in-situ farming.

(iii) Let the Central Government, State Governments of Punjab.

Haryana and U.P. prepare a scheme for making available Combine Harvesters, Happy Seeders. Hydraulically Reversible MB Plough, Paddy Straw Chopper. Mulcher. Rotary Slasher, Zero till Seed Drill and Rotavators and balers especially dedicated to small and marginal farmers to be made available either free of charge or on nominal rental basis.

(iv) Let the Government of NCT of Delhi/NCR Region and concerned Governments of Haryana and U.P. file reports with respect to various identified hotspots and steps taken for their management and to clear the environmental hazards created by such hotspots.

(v) (a) As proposed in the reply of the Delhi Government, let the Smog Tower at Connaught Place be completed by Delhi Government as proposed in their reply affidavit. Let the Smog Tower be completed within three months.

(b) Let Smog Tower be installed at Anand Vihar as pointed out by Central Pollution Control Board (CPCB). Let Delhi Government provide space of 30 x 30 meters for in Anand Vihar within seven days. The project to be funded by the Union Government, however, Ministry of Environment. Forest and Climate Change is directed to monitor the project. Let project be completed within three months.

(vi) Let anti-smog guns be used in Delhi and NCR region for the following:

- (a) Large construction sites;
- (b) Road construction stretches, particularly during earthwork and compacting;
- (c) Mining activities;
- (d) Large parking sites on unpaved areas and during large public gatherings;
- (e) Demolition activities;
- (f) Sprinkling on dust prone traffic corridors.
- (g) It be made compulsory to make use of anti-smog guns in Delhi-

NCR in the projects that require environmental clearance from the State/Central level on site having built-up area of more than 20.000 sq.mts. including excavation. material handling and other dust generating activities. Let an appropriate policy decision be also taken with respect to cost of installation, duly considering the principle "polluters pays" installation of an experimental tower at evolved by this Court.

(vii) The Governments of NCT of Delhi, U.P., Haryana and Rajasthan. are directed to identify the dumped waste of plastic, industrial and other wastes and to ensure that waste is not burnt and is used for processing/incineration and piled up waste is removed on time-bound basis without fail and report be filed within six weeks.

(viii) We direct the Pollution Control Boards of Delhi, Haryana, Rajasthan and U.P. to monitor the industrial areas especially at night also and to take stringent action with respect to the industries emitting black smoke from chimneys and it be ensured that the industries comply with the norms and standards for PM/NOx/Sox.

(ix) For construction and demolition, we direct the Governments of NCT of Delhi, Rajasthan, Haryana and U.P. to file a status report regarding compliance with the Construction and Demolition Waste Management Rules, 2016. Let penal action be taken against the developers found flouting the norms.

(x) We direct the Governments of NCT of Delhi, Haryana, Rajasthan and U.P. to file status report on the penalty imposed and the action taken on the developers for violating the norms regarding construction/ demolition activity and whether any developer has been blacklisted. Let various local bodies and Government of NCT of Delhi and Governments of Haryana, Rajasthan and U.P. also file status reports in this regard.

(xi) With respect to road construction, there has to be sprinkling of water. Let the Government of NCT of Delhi and Governments of Haryana, Rajasthan and U.P. file a status report with respect to compliance of road construction norms and details of non- compliant portion.

(xii) Let the Government of NCT of Delhi and Governments of Haryana, Rajasthan and U.P. point out the existing facilities of recycling of construction and demolition waste and the deficit of facilities in this regard.

(xiii) With respect to waste burning, compliance of Solid Waste Management Rules, 2016 be ensured by the Government of NCT of Delhi and Governments of Haryana, Rajasthan and U.P. Let a comprehensive plan for waste management be prepared and existing facilities and overall requirement be also worked out.

(xiv) (a). In the reports filed by the Chairman, EPCA indicating the details of his visit to New Friends Colony- Jhilmil Industrial Area, Saboli and Mandoli village -Mandoli Industrial Area, Bhopura Border. Subzi Mandi Sahibabad, Hindon Vihar, Ghaziabad and Sahibabad Industrial Area certain problems have been pointed out and several observations have been made. We direct the concerned

authorities of the area, District Magistrate, Ghaziabad, to ensure that all remedial measures are taken by the concerned bodies and report be submitted as to remedial work taken with respect to each and every observation which has been made in the report submitted by the Chairman, EPCA within one month.

(b). With respect to Panipat, the Inspection Report contains (1) Urban Extension Road, (2) Narela Industrial Area, (3) Panipat Industrial Area. Let the Deputy Commissioner ensure that appropriate measures are taken with respect to observations made in the aforesaid orders within one month.

(c). With respect to the visit to Meerut on October 12, 2019, various aspects have been pointed out. Let the District Magistrate, Meerut, National Highways Authority of India (NHAI), concerned Pollution Control Board, Municipal Commissioner. Meerut Nagar Nigam and Meerut Development Authority to take appropriate measures within one month.

(d). With respect to Mundka Tikri from the visit dated October 13, 2019, various observations have been made and problems have been pointed out which are required to be attended by the concerned authorities. We direct the concerned authorities of the areas, District Magistrates, Pollution Control Boards. Deputy Commissioners of Municipal Corporations, to take the remedial measures and report pointwise compliance on each and every aspect of Report No. 16 of EPCA Chairman within one month.

(e). With respect to EPCA Chairman visit at Bahadurgarh, the Haryana State Pollution Control Board (HSPCB). City Magistrate, Bahadurgarh, District Magistrate, Bahadurgarh and all concerned officials are directed to take remedial measures and compliance be reported to this Court within one month.

(f). In respect of the field visit of EPCA Chairman to Bhiwadi and other regions of Rajasthan. let the Government, RIICO, District Magistrate, Bhiwadi consider the recommendations made in the report and report the compliance to this Court within one month.

(g). Let the extracts of the reports with respect to aforesaid areas be forwarded to the concerned authorities by the EPCA for prompt compliance.

(xv) With respect to oxy furnace in glass industries, let the DST Technical Committee consider the proposal for installation of oxy furnace in glass industries in Delhi and NCR. Let the consideration be made within two weeks in consultation with the sectoral expert and other concerned stakeholders. Relating costs and modalities be worked out.

(xvi) Let the details be worked out for chemical test methods for smoke emission control in various industrial sectors for meeting prescribed emission norms and entire details be furnished as to their use.

(xvii) Let proper research and development be made in wireless sensors network technology. Let the concerned officials consider further LIDAR (a laserbased method) and Spectroscopic monitoring

techniques as considered appropriate by them. Let the use of spectroscopy to monitor ambient air quality be considered by various States.

(xviii) Let the Government of NCT of Delhi work out the details with respect to 45% deficit capacity to lift the garbage and waste as there is only 55% capacity available with respect to garbage and waste generated in Delhi. Let it work out a comprehensive plan within three months to have full (10096) capacity to deal with garbage and wastes and place it before this Court, including the implements, tools, manpower and the expenditure required in that connection.

(xix) Let the action taken be reported with respect to the vehicles found plying on kerosene, checks undertaken and action taken report be placed before this Court within a month by the concerned Pollution Control Boards.

(xx) With respect to water quality supplied in Delhi, let the concerned Pollution Control Boards as well as the Indian Bureau of Standards. submit a report of random checking of various samples in Delhi and submit a report in this regard within one month.

(xxi) We direct the various State Governments through Chief Secretaries to inform this Court about the measures taken by them with respect to pouring of sewage and untreated industrial effluents in various rivers and the plan prepared by them and arrangement of funds made by them for the purpose of sewage treatment plants and existing facilities and requirements be pointed out within eight weeks.

(xxii) Let the Government of NCT of Delhi and Governments of Punjab, Haryana and U.P. show cause why they should not be saddled with the compensation for failure of their machinery and the concerned authorities in taking appropriate steps to prevent stubble burning and other pollution being caused.

(xxiii) With respect to solving traffic congestion, let the Government of NCT of Delhi and Governments of Haryana, Rajasthan and U.P. work out a plan so as to solve the problem of traffic congestion and compliance of the orders passed earlier by this Court with respect to solving the problem of traffic congestion.

(xxiv) Let the concerned Municipal Corporations of Delhi, Government of NCT of Delhi, concerned bodies and Governments of Haryana, Rajasthan and U.P. to take care of potholes and file reports of action taken within three weeks and compliance report with respect to their previous directions be also filed and in case any work is left, let it be completed within three weeks."

2. The matter is still pending before the Hon'ble Supreme Court.

3. Further, the applicant filed Writ Petition under Article 32 which was disposed of with the observations that he should give his suggestions to the concerned authorities. The order is as follows:-

"1. Since the petitioner has certain concrete suggestions in regard to ascertainment and control of air pollution in the National Capital Territory of Delhi, he is at liberty to move the regulatory authorities concerned with his suggestions.

2. We are not inclined to entertain a petition under Article 32 of the Constitution of India.

3. Granting liberty to the petitioner to pursue the aforesaid course of action, the Writ Petition is disposed of.

4. Pending applications, if any, stand disposed of."

4. In view of above, we are unable to entertain this application which stands disposed of.

Adarsh Kumar Goel, CP Sudhir Agarwal, JM Dr. A. Senthil Vel, EM May 31, 2023 Original Application No. 392/2023 AB