

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

**Original Application No.21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015 &
M.A. NO. 234 OF 2015)**

AND

Original Application No. 95 of 2014

IN THE MATTER OF:

**Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Present:

Applicant:	Mr. Sanjay Upadhyay, Mr. Adarsh Shrivastava, Adv.
Respondent No. 1:	Ms. Panchajanjya Batra Singh, Advocate
Respondent No. 2 & 4:	Mr. Narender Pal Singh, Adv. and Mr. Dinesh, Adv.
Respondent No. 3,5,6:	Mr. Ardhendumauli Kumar Prasad, Adv. Mrs. Avnish Ahlawat, and Mr. Nitish Singh, Adv. Mr. M.K. Sharma and Mr. R.R. Rasana, Adv. Ms. Savitri Pandey, Adv. for the State of U. P. Mr. Sanjeev Ailawadai, Adv. and Ms. Priyadeep, Adv. in M.A. Nos. 122/2015 and 2019/2015 Mr. I.K. Kapila, Mr. S.K. Pobbi, Ms. Shiksha Rai and Mr. A.K. Singh, Adv. In M.A. No. 200 of 2015 Mr. Balendu Shekhar and Mr. Vivek Jaiswal, Adv. Ms. Puja Kalra and Mr. Dhamendra Kumar, Adv. for South and North MCD Mr. Anil Grover, AAG and Mr. Rahul Khurana, Adv. Mr. Rajiv Bansal, Mr. Kush Sharma and Ms. D. Ray, Adv. for DDA Mr. D. Rajeshwar, Adv. Mr. M. Yogesh Kaura with Mr. A. Santha Kumar, Adv. Mr. Arun Barroka, Mr. Jayesh Kumar, Mr. G.P. Bansee and Mr. Diwakar Aggarwal, Adv. Mr. Zubaida Begam, Adv. Mr. Raman Yadav, Adv. Mr. Rakesh K. Sharma, Inspector, Mr. Abhishek K. Sharma, ACP, Mr. Mahesh Kumar, SHO, Mr. S.K. Patil, ACP, Mr. Rishi, ACP, Mr Sunder Kumar and Inspector Chauhan,

And Present:

Applicant:	Mr. Sanjay Kulshreshtha,
Respondent No. 2 to 6:	Mr. Ardhendumauli Kumar Prasad, Adv.
Respondent No. 7:	Mr. Rahul Choudhary, Adv.

Respondent No. 10:

**Mr. M. Yogesh Kaura with Mr. Santha Kumar,
Advs.**

	Date and Remarks	Orders of the Tribunal
	<p>Item No. 08 & 09</p> <p>March 16, 2015</p>	<p>Under the orders of the Tribunal the CPCB had been directed to assess the NCRs ambient air quality status, and the Board has in furtherance thereto carried out the studies and submitted a report</p> <p>The National Capital Region (for short 'NCR') is a unique example of interstate regional development planning for a region with NCT of Delhi as its core. This region covers an area of near 34,144 km. Nothing contrary to the case pleaded by the Applicants and as widely reported by the print media has come to the notice of this specialized body. On the contrary it brings on record an alarming situation of polluted ambient air quality in the NCT of Delhi. Just to notice a few, nitrogen dioxide was found to be beyond the prescribed value of 80 $\mu\text{g}/\text{m}^3$ i.e. range of 4-367 $\mu\text{g}/\text{m}^3$ on 145 occasions in Delhi on 24 hour basis. Particulate Matters (PM_{10}) of the monitoring locations, the value ranged from 14-948 $\mu\text{g}/\text{m}^3$ against the prescribed limit of 100 $\mu\text{g}/\text{m}^3$ on 538 occasions out of 545. In case of particulate matter $\text{PM}_{2.5}$, the samplings show value ranges from 30.41 to 1284 $\mu\text{g}/\text{m}^3$ indicating that almost all of them exceed the NAAQS standard of 60 $\mu\text{g}/\text{m}^3$. Carbon monoxide sampling showed the value ranged from 0.2 to 21.19 mg/m^3 which exceeds the prescribed NAAQS standard of 2 mg/m^3. In this report, it has also been noticed that ambient air quality during peak hours shows PM_{10}, $\text{PM}_{2.5}$, CO and Benzene exceeds the prescribed standards.</p>

At this stage we may also make a reference to a connected Application i.e. original application no. 95 of 2014 wherein Cardio Pediatric Surgeon, who moved a petition before the Hon'ble Supreme Court of India which is transferred to this Tribunal, has contended that the ambient air quality in most of the Metropolitan cities and even including Agra is so injurious to human health that it would adversely affect human foetus and newly born children between 1 to 5 years would be exposed to very high risk of developing respiratory health problems. Presence of pollutants in the ambient air quality of Delhi is a matter of concern for all stake holders. Human health is an integral facet of Right to life and thus must take precedence over all commercial and infrastructure projects. The principal of inter generational equity demands that all institutions, be it legislature, judiciary, executive, must make all possible endeavor to ensure proper air quality as it must pass on to its next generation if not improved but atleast, the environment that it has inherited from it ancestors.

The scientific data undoubtedly indicates that the problem is very severe and if not checked the results would be drastic.

Nobody can claim a right which will infringe upon or destroy the right to life. The Hon'ble Supreme Court of India in many cases has held that healthy, clean and decent environment is a mandate of Article 21 of the Constitution of India. Thus, strict enforcement of environmental provisions of law is the duty of all concerned including this Tribunal. We are pained to note that despite our repeated persuasive and mandatory orders the Authorities concerned have not

risen to the occasion for taking proper and effective steps. The response lacks will and bonafides and exhibits callous attitude of shifting responsibility from one to other.

This compelled us to pass an order on 10th March, 2015 resulting in issuance of show cause notice to the concerned Authorities of the State as to why an order of attachment and civil imprisonment in the terms of Order XXI of the CPC besides other actions that the Tribunal could take within the scheme and provisions of the National Green Tribunal Act, 2010 be not taken for non-compliance of the orders of this Tribunal which in any case is to be executed as a decree of the Civil Court.

The Secretary, PWD appeared before us and assure to the Tribunal that within one week from today the steps would be taken. Though we hardly found any justification for non-compliance of the Orders and directions of the Tribunal, still on the assurance given by the Senior Officer of the NCT of Delhi, we would grant last opportunity to the NCT of Delhi and its Department and Police Authority to ensure the compliance of the directions contained in the various orders of the Tribunal. However, it would not exempt the Authorities from replying to the show cause notice issued by the Tribunal.

Let the compliance report be submitted before the next date of hearing particularly in relation to Lajpat Nagar.

We are also informed that temporary parking by Delhi Urban Shelter Board (DUSB) has not been operated as earlier agreed by the Board and directed by the Tribunal.

We issue clear and unambiguous directions that the parking in that area shall be permitted forthwith. In the

event of default the Director of the said Board shall be personally responsible rendering himself liable for an action in accordance with law under the orders of the Tribunal.

The CPCB has also brought to our notice that it had inspected 15 old and 12 new buses of DTC that are plying on the roads of Delhi. Out of these, 12 new buses were found to be compliant with the prescribed emissions norms- while out of 15 old vehicles 9 were found compliant and 6 were found to be non-confirming to the prescribed standards. All the 6 buses mentioned in the report of CPCB shall forthwith be taken off the roads of Delhi. If these buses are found to be plying on the roads of Delhi the CEO of DTC shall be personally responsible for consequences for violating the Orders of the Tribunal. These buses however, would be subjected to the inspection by an Expert Team that would be appointed by the Tribunal and their operation would be permitted only after the Orders of the Tribunal.

From the above scientific data it is clear that the presence of particulate matters and carbon in air needs to be checked. We have directed NCT Delhi to submit its view on various aspects to the Tribunal which has not been done so far. We direct the compliance to be made within one week from today without default. The Affidavit-cum-status Report shall be filed by the Secretary, NCT Delhi after holding a meeting chaired by the Chief Secretary of Delhi where all Departments, authorities, police should be directed to be present. This would deal with the compliance/non-compliance of each direction. We also direct the NCT Delhi to submit its view as to why all the Diesel (commercial or otherwise) vehicles plying in Delhi which are more than 10

years old should not be taken off the roads and be not permitted from plying in the city. These views with scientific data should be submitted to the Tribunal, along with the exact number of Diesel vehicles which are more than 10 years old and their impact on ambient air quality.

The direction in relation to Karol Bagh, Lajpat Nagar, South Ex. and Nehru Place shall be continued to be complied without default and delay, and a report shall be submitted by the Secretary even in that behalf. We make it clear that it should be brought before the Tribunal as to why the multi-level parking proposals which are pending for years before the Authority are not being implemented, reasons thereof and how they would be implemented in a time frame.

Since some steps have been taken in Lajpat Nagar, we direct CPCB to take the ambient air quality samples at the same place where the samples were collected earlier on next Tuesday and Wednesday and submit analysis Report to the Tribunal. Comparative pre-existing data for the year 2014 should also be mentioned in that Report.

The Applicant in Original Application No. 95 of 2014 is permitted to make a Power Point Presentation to the Secretary of MoEF, Chief Secretary Delhi, Chairman of CPCB and DPCC along with the other Sr. Most officers of the respective corporation, who shall remain present for the presentation. Let this be done on 7th April, 2015 on which date the case is also to be listed before the Tribunal.

The State of UP, State of Haryana and State of Rajasthan all are directed to provide and fully cooperate with NCT Delhi for installation and effective operation of the

weighing machines those already existing in their respective jurisdiction or are required to be installed under the Orders of the Tribunal. We reiterate our directions that overloaded vehicles would not be permitted to enter NCR Delhi. We also direct that in all the markets particularly Lajpat Nagar, Karol Bagh, South Ex., Chandani Chowk and other densely polluted markets the loading and unloading would not be allowed from 11:00 a.m. to 8:00 p.m. everyday.

All persons filing M.A.'s shall pay requisite fees under the rules.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

.....,EM
(Ranjan Chatterjee)

