

ITEM NO.301 + 302 + 304 COURT NO.1 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

I.A.No.345 in Writ Petition (C) No.13029/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

I.A.No.471 in I.A.Nos.447-448 in I.A.No.365 in I.A.No.345 in W.P.
 (C) No.13029/1985

I.A.No.477-479 in I.A.No.365 in I.A.No.345 in W.P.(C) No.13029/1985

Date : 02/12/2016 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE A.K. SIKRI
 HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Petitioner-in-person

Mr. Harish N. Salve Sr.Adv.(A.C.)

Ms. Aparjita Singh (A.C.), Adv.

Mr. A.D.N. Rao(A.C.), Adv.

Mr. Siddharth Chaudhary (A.C.), Adv.

Mr. Chirag M. Shroff, Adv.

Mr. Mahabir Singh, Sr. Adv.

Mr. Nikhil Jain, Adv.

Mr. Gagan Deep Sharma, Adv.

Ms. Preeti Singh, Adv.

Mr. Satya Prakash, Adv.

Mr. Gautam Awasthi, Adv.

For Respondent(s)

Mr. Ranjit Kumar, SG

(Union of India Mr. Tushar Mehta, ASG

-MOEF and Surface) Mr. Ajay Sharma, Adv.

Mr. Santosh Kumar, Adv.
 Mr. Pranav Kumar, Adv.
 Mr. W.S.A. Quadri, Adv.
 Mr. G.S.Makker, Adv.

Mr. Ranjit Kumar, SG
 Ms. Sumija Hazarika, Adv.
 Mr. Sudhir Waliya, Adv.
 Ms. Niharika Ahluwalia, Adv.
 Mr. B.K.Prasad, Adv.

(Respondent No.8) Dr. A.M. Singhvi, Sr. Adv.
 Mr. Sandeep Narain, Adv.
 Mr. Avishkar Singhvi, Adv.

(State of Haryana) Mr. Anil Grover, AAG
 Mr. Satish Kumar, Adv.
 Mr. Arun Tewatia, Adv.
 Mr. Sanjay Kr. Visen, Adv.

(State of Punjab) Mr. Saurabh Ajay Gupta, Adv.
 Mr. Nishant Bishnoi, Adv.
 Mr. Rajeev Singhal, Adv.

(M/o Petroleum) Mr. R.K. Rathore, Adv.
 Ms. Vibhu Sankar Mishra, Adv.
 Mr. Raj Bahadur Yadav, Adv.

(For MCD) Mr. Ajay Bansal, Adv.
 Mr. Aum Mangalasserry, Adv.
 Mr. Suvesh Kumar, Adv.
 Mr. Praveen Swarup, Adv.

(NCT of Delhi) Mrs. Pinky Anand, ASG
 Mr. Shadman Ali, Adv.
 Mr. S.A. Siddiqui, Adv.
 Mr. S.W.A. Quadri, Adv.
 Mr. Mukul Singh, Adv.
 Mr. G.S. Makker, Adv.
 Ms. Somyo Rathore, Adv.
 Mr. B.K Prasad, Adv.

(Mahindrs & Mahindra) Mr. Mahesh Agarwal, Adv.
 Mr. Rishi Agrawala, Adv.
 Mr. E.C. Agrawala, Adv.
 Mr. Rishabh Parikh, Adv.

Mr. Garvesh Kabra, Adv.
 Mr. Samir Ali Khan, Adv.

Mr. Sarfraz Ahmed Siddiqui, Adv.
Mr. Satya Siddiqui, Adv.
Mr. Shyam Singh Chauhan, Adv.
Mr. B.K. Prasad, Adv.

(State of W.B.) Mr. Soumitra G. Chaudhuri, Adv.
Mr. Parijat Sinha, Adv.
Mr. Somnath Banerjee, Adv.

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

When this matter was taken up earlier on 10.11.2016 for hearing, Mr.Parihar, Chairman, CPCB had sought time to examine the the need for setting up additional stations for monitoring the pollution levels in the NCR region and also a time frame within which such stations can be set up. Mr.Parihar was also required to examine whether the control room set up by the CPCB for monitoring pollution levels in the city needs to be suitably equipped and upgraded for processing the data received from other stations. Mr.Ranjit Kumar, learned Solicitor General has today filed before us a compilation along with other documents in which he has prayed for reconsideration of a statement (Annexure-2) dealing with need for upgradation of the central control room and setting up of additional monitoring centres in the monitoring stations in the N.C.R. On a reading of the said documents it appears that CPCB proposes to upgrade the central control room by purchasing an automated machine at an estimated cost of Rs.57 lakhs for expenditure towards hardware, internet and optical fibres etc. with the help of NIC. In addition, the CPCB proposes to set up as many as 12 manual and 8 real time stations in 7 districts of Uttar

Pradesh. Similarly, 9 real time stations in the State of Haryana within the NCR are proposed to be set up and 24 additional stations to be subsequently added. In the State of Rajasthan also 2 real time monitoring stations are proposed by the CPCB besides 20 such stations in the Delhi apart from 28 already in existence. Mr. Ranjit Kumar, learned Solicitor General points out that for manual and real time stations planned by the CPCB necessary budgetary allocations are available and will be utilized for making the stations functional as early as possible but not later than six months from today.

Mr. Harish N. Salve, learned Amicus Curia points out that the manual stations can also be replaced by real time stations as manual stations are of no practical use keeping in mind the fact that better technology is available and ought to be used for more accurate and quicker results.

In the circumstances, therefore, we grant six months' time to the Chairman, CPCB to implement the proposed extension of manual stations/upgradation of manual stations. Additional stations proposed for the State of Haryana may also be set up and execution taken up during this period. We reserve liberty to CPCB to apply for extension of time in case there is any unavoidable impediment in the completion of the work. A status report as to the progress made shall however be submitted by the CPCB at the end of six months' period granted by this Court.

We had by our order dated 25.11.2016 requested to Ms.Sunita Narayan who is present in the court to examine the proposed draft action plan filed before us so that a more effective and realistic standard for determination of different grades/levels of pollution could be adopted and the response to deal with the same. Mr. Ranjit Kumar, learned Solicitor General has today filed a fresh action plan which includes the graded response to different levels of pollution. Ms. Narayan submits that the plan as presented is acceptable and all that needs to be done is to ensure that the same is given statutory flavour by the Government by issuing an appropriate Notification in exercise of the powers vested in it under Section 3 of the Environment Protect Act, 1986. It is also submitted by Mr.Harish Salve, learned Amicus Curiae that the enforcement of the responses as planned could be left to EPCA which is an authority set up by the Central Government under Section 3(3) of the Act aforementioned.

Mr. Ranjit Kumar, learned Solicitor General does not have any objection to the Central Government examining the matter and issuing an appropriate Notification in exercise of its powers under Section 3(1) and all other enabling powers vested in it. He submits that EPCA is indeed an authority set up in terms of Section 3(3) of the Act and that once the graded response is notified by the Central Government in terms of Section 3(1), steps for the enforcement of such responses could be left to EPCA which could then either independently or in collaboration with CPCB issue

directions to all such agencies as would be responsible for implementing such measures.

In the circumstances therefore we direct the Central Government to examine the matter and issue an appropriate notification under Section 3(1) of the Act incorporating graded responses as proposed. In the Notification the Government may also make it clear that the implementation of the graded responses shall be under the orders of the EPCA and that all authorities, governmental or otherwise shall act in aid of such directions.

Mr. Harish N. Salve, learned Amicus Curia next argues that one of the major causes of pollution in the NCR region happens to be the use of Petcoke and furnace oil as fuel generally for industrial purpose and for power generation. He has tendered before us a report which indicates that use of both these types of fuel is highly harmful in view of high sulphur content in the same. He submits that this Court could direct the Government to ban the use of Petcoke and furnace oil as industrial fuel and for generation of electricity in the NCR region.

Mr. Ranjit Kumar, learned Solicitor General seeks time to examine the issue and to take appropriate steps. In the circumstances we grant to the Central Government four weeks' time to examine the issue whether Pet coke and furnace oil if used as industrial fuel and for generation of electricity are harmful because of high sulphur content in the same. In case the

Government come to the conclusion that the use of the said fuel is indeed harmful for human beings, the Government may consider issuing appropriate directions in terms of Section 3(2)(v) of the Act which empowers the Government to regulate the industries' operations and processes or impose safeguards on such industries' operations and processes. We are of the view that forbidding use of Petcoke and furnace oil as industrial fuel and for generation of power will tantamount to safeguards for such operations or processes as may require the use of such fuel.

We had by our order dated 25.11.2016 asked the Government to answer a few queries set out in the said order in regard to what is the system of issuing "Pollution Under Control Certificate" (PUC) to vehicle owners and as to who licenses the centres where such pollution checks are carried out. Mr.Ranjit Kumar, learned SG has today filed his response to the said queries and explained the position at some length. We request Ms.Sunita Narayan to examine the reply to the queries filed by Mr.Ranjit Kumar and to file her response to the same along with her suggestions if any for improvement of the prevalent system.

Graded response and answers to the queries raised by the Court is taken on record.

List these applications again in the 3rd week of January, 2017 at 2.00 p.m.

I.A.No.471 in I.A.Nos.447-448 in I.A.No.365 in I.A.No.345 in W.P.
(C) No.13029/1985

Learned counsel for the Government of NCT of Delhi is free to file their objections in this application within four weeks.

List again in the 3rd week of January, 2017 at 2.00 p.m.

I.A.No.477-479 in I.A.No.365 in I.A.No.345 in W.P.(C) No.13029/1985

List these application in the 3rd week of January, 2017 at 2.00 p.m.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master

ITEM NO.303

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A.No.475-476 IN I.A.No.363-364 in I.A.No.344, 355, 362 in Writ
Petition(Civil) No.13029/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for intervention and directions and office report)

Date : 02/12/2016 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Harish N. Salve Sr. Adv. (A.C.)

Mr. Sidhartha Chowdhury, Adv. (A.C.)

Ms. Aparajita Singh, Adv.

Mr. A.D.N. Rao, Adv. (A.C.)

Petitioner-in-person

Mr. S.N. Terdal, Adv.

For Respondent(s)

Mr. Ranjit Kumar, SG

Mr. Ajay Sharma, Adv.

Mr. S.W.A. Quadri, Adv.

Mr. G.S. Makkar, Adv.

Dr. Monika Gusain, Adv.

Mr. Karunesh Shukla, Adv.

Mr. Manali Singhal, Adv.

Mr. Santosh Sachin, Adv.

Mr. Rohit Kaul, Adv.

Mr. Abhijat P. Medh, Adv.

M/s KMP Expressways Ltd.

(For HSIIDC)	Mr. Tushar Mehta, ASG Mr. Alok Sangwan, AAG
(For IDBI & SBI Bank)	Mr. Neeraj Kishan Kaul, Sr. Adv. Mr. Sumit Attri, Adv. Mr. George Varghese, Adv. Mr. Samar Kachwaha, Adv. Mr. Cyril Amarchand Mangaldas, Adv.
(For NHAI)	Mrs. Gunnjan Sinha Jain, Adv. Mr. Simranjeet Singh, Adv. M/s M.V. Kini & Assets
(For CPCB)	Mr. Vijay Panjwani, Adv.
(Govt. of Delhi)	Mr. Rahul Mehra, Adv. Mr. Chirag M. Shroff, Adv. Mr. Tushar Sannu, Adv. Mr. D.S. Mahra, Adv. Mr. Ravindra Bana, Adv. Mr. Abhishek Chaudhary, Adv. M/s Khaitan & Co. Mr. Naveen Kumar, Adv.

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

List these applications on Friday, 9th December, 2016 at
2.00 p.m.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master