

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

Writ Petition(s) (Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(1) In Re: REPORT NO. 71 AND 78 FILED BY EPCA
(REGARDING COMPREHENSIVE ACTION PLAN FOR AIR POLLUTION CONTROL AND
SUPPLEMENTARY REPORT ON THE COMPREHENSIVE ACTION PLAN WITH
TIMELINES)

2) IN Re: REPORT NO. 73 AND 75 FILED BY EPCA (ON THE ASSESSMENT OF
POLLUTION UNDER CONTROL (PUC) PROGRAMME IN DELHI AND NCR)

Date : 17-11-2017 These applications were called on for hearing
today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Harish N. Salve, Sr. Advocate (A.C.)

Ms. Aparajita Singh, Advocate (A.C.)

Mr. A.D.N. Rao, Advocate (A.C.) [Np]

Mr. Siddhartha Chowdhury, Advocate (A.C.) [Np]

Petitioner-In-Person

For Respondent(S) Mr. A.N.S. Nadkarni, ASG
Mr. S.Wasim A. Qadri, Adv.
Mr. D.L. Chidanand, Adv.
Mr. Ritesh Kumar, Adv.
Mr. Zaid Ali, Adv.
Mr. Saeed Qadri, Adv.
Mr. S.S. Rebello, Adv.
Ms. Nivedita Nair, Adv.
Mr. Abhisehk Bharadwaj, Adv.
Mr. Jai Dehadrai, Adv.
Ms. Divya Prakash Pandey, Adv.
Mr. Ajit Yadav, Adv.
Ms. Saudamini Sharma, Adv.
Ms. Pallavi Chopra, Adv.
Mr. G.S. Makker, Advocate.

	Mr. Ajit Yadav, Adv.
CPCB	Mr. Vijay Panjwani, Advocate
U.P.	Ms. Aishwarya Bhati, AAG Ms. Rachna Gupta, Adv. Mr. Siddhant S. Malik, Adv.
Haryana	Mr. Anil Grover, AAG Ms. Noopur Singhal, Adv. Mr. Satish Kumar, Adv. Mr. Ajay Bansal, Adv. Mr. Gaurav Yadav, Adv. Mr. Sanjay Kr. Visen, Advocate Mr. Samir Ali Khan, Advocate
Rajasthan	Mr. S.S. Shamsbery, AAG Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Ruchi Kohli, Advocate
NCT	Mr. Chirag M. Shroff, Adv. Ms. Neha Sangwan, Adv. Mr. B.K. Prasad, Advocate. M/S S Narain
Mercedes Benz	Mr. Gopal Subramaniam, Sr. Adv. Mr. Akshat Hansaria, Adv. Mr. Amit K. Mishra, Adv. Mr. Pavan Bhushan, Adv. Mr. Ritesh Bajaj, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Report Nos. 72 and 76

On 13.11.2017, we had reserved orders on various applications filed for recall of the order dated 24.10.2017 regarding the ban on use of furnace oil and pet coke in the States of U.P., Haryana and Rajasthan.

Today, the learned ASG has placed before us a decision taken

by the Ministry of Environment, Forests and Climate Change of the Government of India on 15.11.2017 requiring the Central Pollution Control Board to issue a direction under Section 5 of the Environment (Protection) Act 1986 to the States of U.P., Haryana and Rajasthan prohibiting any industry, operation or processes using pet coke and furnace oil as fuel with immediate effect until further orders. It is clarified by the learned ASG that this is with respect to entire State and not only NCR region.

Pursuant to the communication dated 15.11.2017, a direction has been issued on the same date i.e. 15.11.2017 by the Chairman, CPCB under Section 5 of the Environment (Protection) Act, 1986. The direction is to the effect that there will be a prohibition on the use of pet coke and furnace oil by any industry, operation or processes within the the States of U.P., Haryana and Rajasthan with immediate effect until further orders.

It is submitted by the learned Amicus that a prohibition on the use of pet coke and furnace oil will solve only a part of the problem. A direction should also be issued to the effect there is a ban on the sale of pet coke and furnace oil in all these three States for being used as fuel.

The learned ASG says that he will look into the matter and will get back to us within a week or so.

We may note that pollution caused by pet coke and furnace oil is not a problem confined only to the NCR region but appears to be a problem faced by almost all the States and Union Territories in the country.

For the present, we do not propose to give any direction to

any other State and Union Territory but we request all the State Governments and Union Territories to consider taking similar measures as have been taken by the Government of India and the Chairman of the Central Pollution Control Board under Section 5 of the Environment (Protection) Act, 1986.

List on 4th December, 2017.

Report Nos. 71 and 78 (REGARDING COMPREHENSIVE ACTION PLAN FOR AIR POLLUTION CONTROL AND SUPPLEMENTARY REPORT ON THE COMPREHENSIVE ACTION PLAN WITH TIMELINES)

List on 4th December, 2017 for final orders.

Report Nos.73 and 75 (ON THE ASSESSMENT OF POLLUTION UNDER CONTROL (PUC) PROGRAMME IN DELHI AND NCR)

List on 4th December, 2017 for final orders.

Application for Direction by the Amicus Curiae

Learned Amicus has moved an application in which it is prayed as follows:

- a) Direct the collection of a compensatory sum on petrol and diesel in NCR to be used for measures to deal with pollution in the NCR region.
- b) Direct that the charge so collected should be utilized by the Union of India to procure the requisite agricultural equipments for the farmers of Punjab and Haryana.
- c) Further direct that the Ministry of Petroleum and Natural Gas examine the feasibility of existing technologies and present a workable scheme on the use and disposal of the crop stubble to this

Hon'ble Court.

It is our impression that a prayer similar to prayer (c) has already been made in a writ petition filed and is perhaps pending before Hon'ble the Chief Justice.

On the request of the learned Amicus , we take the application on record but do not pass any orders since the learned Amicus says that he will move Hon'ble the Chief Justice.

Application for Direction by the Amicus Curiae

The learned Amicus has moved another application in which it is prayed as follows:

- a) Direct that sufficeint gas supply be made available so that all power generation in the NCR region is from power plants using gas as their principal fuel.
- b) Direct a ban on import of pet coke and furnace oil and confine the use of domestic pet coke for the sole purpose of feedstock.
- c) Direct the implementation of the 2015 emission standards for power plants as per schedule i.e. by December 2017
- d) Direct the review of the status of existing coal based power plants and a timebound switch over to natural gas.
- e) Direct the Union to oversee measures to strengthen the distribution of electricity in the NCR region to ensure that there is no shortfall in availability of electricity on 24/7 basis.

Issue notice returnable on 04.12.2017.

Mr. Qadri, learned counsel accepts notice.

Learned ASG seeks some time to have instructions and file a response, if necessary.

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Several amounts running into hundreds if not thousand crores have been collected under various heads/accounts pursuant to various orders passed by this Court from time to time. We request the learned ASG appearing for the Union of India, Mr. Vijay Panjwani, learned counsel for CPCB and Ms. Aprajita Singh, the learned Amicus before us to sit together and identify all the heads and the amounts lying under those heads / accounts so that there can be proper utilization of these funds. The Registry is directed to give access to the relevant records, if necessary.

The learned ASG, Mr. Vijay Panjwani and Ms. Aprajita Singh, the learned Amicus may take the assistance of any other person that they feel necessary.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER