

**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, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO. 274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015, M.A. NO. 317 OF 2015 & & M.A. NO. 350 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. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present: **Applicant:** Mr. Sanjay Upadhyay, Mr. Salik Shafique and Mr. Adarsh Srivastava, Advs. along with Mr. Vardhaman Kaushik, Party in person

Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for MoEF

Respondent No. 2 : Mr. Narendra Pal Singh, Adv. with Mr. Dinesh Jindal, LO

Respondent No. 3 : Ms. Alpana Poddar, Adv.

Respondent No. 4 : Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic)

Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv.

Respondent No. 8 Mrs. Avnish Ahlawat for DTC/DUSIB
Mr. I.K. Kapila and Mr. S.K. Pabbi, Adv. MA 200
Ms. Puja Kalra, Adv. with Mr. Ahmed, CE
Mr. Mukesh Kumar Adv. and Mr. B.S. Mukhopadhyay, DGM Environment
Mr. Rahul Choudhary, Adv. for Conservation Action Trust
Ms. Neha Kurian, Local Commissioner
Mr. Ravindra Kumar, Adv. with Mr. Gudipati G. Kashyap, Adv. for NOIDA and Greater NOIDA Authority
Mr. Sanjeev Ralli, Adv. for Chandni Chowk MA. 350/2015 Sarv Vayapar Mandal
Ms. Ruchir Batra, Adv. for Lajpat Nagar Traders Association
Mr. Balendu Shekhar, Adv. with Mr. Vivek Jaiswal, Adv.
Mr. Rajiv Bansal and Mr. Kush Sharma, Adv. for DDA
Ms. Savitri Pandey, Adv. for State of U.P.
Ms. Sakshi Popli, Adv. for NDMC
Anil Grover, AAG with Mr. Rahul Khurana, Adv.
Mr. Sanjeev Ailawadi for M.A. No. 122
Impleaded respondent
Mr. Deepak Khadaria, Adv. in MA 203/15 Vyapar Mandal, Ajmal Khan Road, Market Association.

Original Application No. 95 of 2014

Present: **Applicant:** Mr. Sanjay Kulshrestha (Petitioner in Person), with Mr. Ashish S. Kulshreshtha, Advs.

Respondent No. 1: Mr. Vikas Malhotra and Mr. M.P. Sahay, MoEF & CC
Mr. N. Yogesh Kanna and Mr. A. Santha Kumar, Adv. for state of Tamil Nadu.

| | Date and Remarks | Orders of the Tribunal |
|--|---|---|
| | <p>Item Nos. 01 to 02</p> <p>April 17, 2015</p> <p>SS</p> | <p><u>M. A. No. 317 of 2015</u></p> <p>This is an Application for impleadment and same is disposed of as not pressed. However, the Learned Counsel appearing for the Applicant reserves his right to file a proper Application. Thus, M. A. No. 317 of 2015 stands disposed of as not pressed. Liberty is granted as prayed.</p> <p><u>M. A. No. 350 of 2015</u></p> <p>The Applicant is permitted to be impleaded as party intervener only with the right to address in the main Application. The M.A.No. 350 of 2015 stands disposed of.</p> <p>In relation to the prayer for issuance of directions to the Authorities, the Learned Counsel appearing for the various authorities accepts notice. Let them file reply before the next date of hearing. Copies be furnished to all the Learned Counsel appearing in this case.</p> <p>The Learned Counsel appearing for the CPCB has filed the Status Report in regard to analysis of the Ambient Air Quality of Lajpat Nagar area. The same is taken on record.</p> <p>We direct the DPCC and CPCB to inspect all the major projects in Delhi i.e., Indraprasthra, Badarpur and Rajghat Thermal Power Station and/or any other major project of this nature, which has high air emission. Let them collect Ambient and Stack Air Quality samples and</p> |

place the analysis report before the Tribunal.

Let the analysis reports be filed on the basis of the inspection conducted by the Joint Inspection Team which will also include representative from MoEF. They shall also state whether emissions are found to be in excess of the prescribed standards. The Joint inspection team would also recommend as to what steps need to be taken to ensure that there is no air pollution caused by these plants.

It is undisputable that the main contribution to the high pollutants in the air of Delhi is from three different sources; i.e., vehicular, burning of material and dust arising from construction. All these three sources of pollutants are not only in Delhi but are even from the NCR Delhi i.e. Gurgaon, Faridabad, Nodia, Bahadurgarh, Ghaziabd, Kundli etc.. Let notice be issued to the Chief Secretaries of the State of Uttar Pradesh, State of Haryana and State of Rajasthan. Notice shall also be issued to all the heads of the Public Authorities, the Pollution Control Boards and the Department of Environment of all these respective States. They shall submit a clear status report before the Tribunal as to what steps have been taken by them so far for prevention and control of air pollution in NCR, Delhi particularly from the respective States.

Keeping in view the directions of the Hon'ble Supreme Court of India in Original Application No. 95 of 2014 Dr. Sanjay Kulshreshtha Vs. Union of India, we issue notice to the Chief Secretaries of all the States in the country and Administrators of all the Union Territories,

directing them to submit a Status Report with regard to Prevention and Control of Air Pollution in the cities which are densely populated as well as burdened with the vehicular traffic and heavy developmental activity - For instance, Pune and Nagpur in the State of Maharashtra, Bangalore in the State of Karnataka, Hyderabad in the State of Andhra Pradesh, Ludhiana, Amritsar etc. in the State of Punjab, Rohtak, Panipat and Faridabad in the State of Haryana, Kolkata in the State of West Bengal or any other major city. They shall clearly state the status of Ambient Air Quality supported by the analysis report of samples and the steps taken or plan to be taken up by the respective States for Prevention and Control of Air Pollution and restoration of ambient air quality.

There are some typographical errors in the order dated 10th April, 2015. Let the same be corrected immediately and the corrected order be put on the website of the NGT.

List these matters on 22nd April, 2015 and 01st May, 2015.

.....,CP
(Swatanter Kumar)

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

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

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

.....,EM
(B.S. Sajwan)

Corrected Order

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Original Application No.21 of 2014

Present: Applicant: Mr. Sanjay Upadhyay, Mr. Adarsh Srivastava and Mr. Salik Shafique, Advvs.

Respondent No. 1: Ms. Panchajanjya Batra Singh, Advocate for MoEF

Respondent No. 2 : Ms. Alpana Poddar, Adv.

Respondent No. 3: Ms. Puja Kalra, Adv.

Respondent No. 4 : Mr. Rajiv Bansal with Mr. Kush Sharma and Ms. Arpita, Advvs. for DDA.

**Respondent No. 5,6 & 7: Mr. Ardhendumauli Kumar Prasad, Adv.
Mr. D. Rajeshwar Rao, Adv. for Delhi Police (Traffic)
Ms. Neha Kurian, Ms. Pallavi Talware, Mr. Aditya N. Prasad, Mr. Amit Verma, Mr. Atif and Mr. Sahil Sangar- Local Commissioners
Ms. Savitir Pandey, Adv. for State of UP
Mr. Narender Pal Singh, Adv. for R-2 & 4
Mr. I.K. Kapka, Ms. Shikha Rai, Mr. A.K. Singh, Mr. S.K. Pabbi, Advvs. For Karol Bagh Trader Federation
Mr. Balendu Shekhar, Adv. for EDMC
Mr. Sanjay Kumar, EE (P)
Shri Ruchir Batra, Adv. for Lajpat Nagar Traders Association
Mr. Chirag M. Shroff, Adv. for NCT, Delhi
Ms. Sakshi Popli, Adv. for NDMC
Mr. Ravinder Kumar, Adv. for NOIDA and Gr. NOIDA Authority
Mr. Pinaki Mishra, Sr. Adv., Mr. Rahul Mehra, Ms. Zubdabegum for GNCTD
Mr. Avnish Ahlawat, Adv. for DUCIB, DTC, Transport Dept. & GNCT
Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. for State of Haryana
Mr. Janjeev Ailawali and Ms. Priya Dup, Adv.
Mr. Ajwal Khan, Adv. for Mr. Beopul Mandal,
Mr. Deepak Khada Ria, Adv.
Mr. B.S. Jaiswal, IPS, Dept. Traffic, Southern Range
Mr. Surya Kant Patil, ACP of Traffic, Southern Range
Insp. Shailendra S. Chauhan, TI/HKG**

The Learned Counsel appointed as Commissioners by the Tribunal submitted ^{that} they have visited the sites (entry points of Delhi) and have prepared their report. They pray for time to file the report during the course of the day. Liberty granted. We also direct the Learned Local Commissioner^s to file collective report in regard to the recommendations that they wish to make for better implementation of the directions of the Tribunal.

Let the copies of the inspection report be furnished to all the Learned Counsel appearing in this case for Government and Public Authority and state, who should file their responses ^{thereto, if any,} within one week from today.

The Learned Local Commissioners are directed to visit the entry points whenever they wish to. Police shall provide them due assistance and help to enable them to execute commission without obstruction and inconvenience. Copy of the report be given to all the Learned Counsel appearing for various State authority ^{ies} irrespective ^{of} whether they are party or not.

It is scientifically established fact that the pollutants of ambient air ~~quality~~ ^{open} are from vehicular pollution, dust pollution, pollution by ^{open} burning and emission from industry. Today we have decided to deal with this case in phases to prevent and control ~~of~~ air pollution on the one hand and pass directions for restoration of ambient air quality. The matter pertaining to dust emissions from building construction, transportation, C&D waste, mining and allied ^{activities} ~~activity~~ is being dealt, ^{to begin with.}

Development in all fields is an essential feature of a developing country. If the stake holders carry out the

development^{at} activity in ~~fragnet~~^{flagrant} violation ~~as to~~^{of} the principal^{ic} of sustainable development the results can be disastrous. ~~They~~^{It} may have serious adverse impact not only on environment and ecology of the area but even would raise serious issues of public health. Where construction activity is one of the very significant facet^s of development there it is one of the serious contributor of air pollution by generating dust. Dust could be generated purely from construction activity, transportation of construction material, ~~creation of~~ construction debris waste and by carrying on mining^g activity. Dust emission from these activities attain dangerous dimensions when it^s is carried out rampantly and in aⁿ unregulated manner. The ~~stack~~^{stake} holders for short economic gains do not take environmental preventive and protection^s measures prescribed under laws exposing not only their workers but the entire population of the area to variety of diseases, some of them ~~are~~ even life threatening.

Despite the fact that the Benches of the Tribunal have ~~Expert~~^{EM} members from diverse fields of environment, ~~The~~^{the} Tribunal had adopted approach of consulting the ~~stack~~^{stake} holders while dealing with the issues of air pollution in Delhi and the steps that are required to be taken for improving the air quality.

The Committees were constituted and even deliberations issued vide orders dated 24th November, 2014 and 01st December, 2014 in regard to controlling the polluting^{on} and improving the ambient air quality in Delhi. In the Order dated 01st December, 2014 we had issued a set of directions particularly dealing with the requirements of prevention and control of air pollution resulting from emission of dust in the atmosphere. All the directions

contained in that order shall be read and construed as part of this Order and directions issued hereinafter.

The Expert Committee constituted by the Tribunal had collected samples from 36 different sites in Delhi, Haryana and Uttar Pradesh. The analysis reports indicate significant exceeding parameters. For instance nitrogen dioxide as per the prescribed standard is to be $84 \mu\text{g}/\text{m}^3$, was found to be between $146\text{-}208 \mu\text{g}/\text{m}^3$ in Faridabad ^{and} Delhi. The particulate matter as against permissible of PM_{10} $10 \mu\text{g}/\text{m}^3$ were found to be $484\text{-}276\text{-}948 \mu\text{g}/\text{m}^3$ in Delhi and Faridabad and the surroundings areas. The particulate matters with reference to $\text{PM}_{2.5}$ is excessively violative in Delhi and has gone upto 1284 as against prescribed standard of $60 \mu\text{g}/\text{m}^3$. Carbon dioxide in Delhi is found to be $7.81 \mu\text{g}/\text{m}^3$ against the prescribed value of $2 \mu\text{g}/\text{m}^3$.

Similar data was also taken note ^{of} by the Tribunal in its order dated 16th March, 2015. Nitrogen dioxide was found to be $367 \mu\text{g}/\text{m}^3$ against the prescribed value of $80 \mu\text{g}/\text{m}^3$ on 140 occasions on 24 hours basis. The particulate matters $\text{PM}_{2.5}$ ranged between 30.41 to $1284 \mu\text{g}/\text{m}^3$ against the NAAQS value of $60 \mu\text{g}/\text{m}^3$. Carbon monoxide and benzene both were found to be exceeded.

This ^{is} persuaded ^{to} pass the certain directions in that behalf. The same should also ^{be} read as part of this order.

It has been widely reported that massive construction activity is going on without taking any precautionary and preventive measures. There are no covers scaffolding ^{on} ~~houses~~ ^{houses along} ~~housing of~~ road to reduce dust dispersal. The construction materials are not covered, the workers are not provided with ^{protective} gadgets to prevent inhaling of dust particles particularly fine particles.

Thus there is dire need to immediately pass appropriate directions for preventing and controlling the pollution of air from dust and to improve ambient air quality particularly of NCR of Delhi.

We are not oblivious of all the difficulties that may come in the way of the bonafide purchasers, and the builders ~~for~~ ^{from} the ~~restrained~~ ^{restraint} orders passed by on 16th March, 2015. But it is not only legal but even a social and corporate responsibility of all the builders to carry on construction activity or mining activity strictly in accordance with the prescribed rules. They must ensure that for small economic gains they do not expose the public including their purchasers and workers to serious diseases and adversely ~~effecting~~ ^{affecting} the public health at large. The constitutional right to life, decent and clean environment has to take precedent over the right of an individual to carry on business activity.

Thus we pass the following directions:

- 24
- ~~No~~ ^{Every} Corporation, authority or instrumentality of the State vested with the power of sanctioning plans, drawings for construction of any commercial, residential and even construction ^{on} of small plots would impose a clear condition that sanction of plans is subject to the builder, owner or person seeking sanction would strictly comply with the directions contained in this order as well as the MoEF Guidelines, 2010 while raising construction.
- (ii) Such Authorities shall forth with issue notices to all the builders raising any kind of construction that they should strictly adhere to and comply with the directions contained in this order of the

Tribunal as well as MoEF Guidelines, 2010 ⁱⁿ ~~is~~
relation to precautions required to be taken while
carrying on construction.

- (iii) Every builder or owner shall put tarpaulin on scaffolding around the area of construction and the building. No person including builder, owner can be permitted to store any construction material particularly sand on any part of the street, roads in any colony.
- (iv) The construction material of any kind that is stored in the site will be fully covered in all respects so that it does not disperse in the Air in any form.
- (v) All the construction material and debris shall be carried in the trucks or other vehicles which are fully covered and protected so as to ensure that the construction debris or the construction material does not get dispersed into the air or atmosphere, in any form whatsoever.
- (vi) The dust emissions from the construction site should be completely controlled and all precautions taken in that behalf.
- (vii) The vehicles ~~is~~ carrying construction material and construction debris of any kind should be cleaned before it is permitted to ply on the road after unloading of such material.
- (viii) Every worker working on the construction site and involved in loading, unloading and carriage of construction material and construction debris shall be provided with mask ^K to prevent inhalation of dust particles.

- (ix) Every owner and/or builder shall be under obligation to provide all medical help, investigation and treatment to the workers involved in the construction of building and carry^{ing} of construction material and debris relating to dust emission.
- (x) It shall be the responsibility of every builder to transport construction material and debris waste to construction site, dumping site or any other place in accordance with rules and in terms of this order.
- (xi) All to take appropriate measures and to ensure that the terms and conditions of the earlier order and these orders should strictly comply with by fixing sprinklers, creations^g of green^{belts/} air barriers.
- (xii) Compulsory use of wetjet in grinding and stone cutting.
- (xiii) Wind breaking walls around construction site.
- (xiv) All concerned Government^s that is state of NCT, Delhi state of U.P., state of Rajasthan and Haryana shall ensure that mining^g activity^g, if otherwise permitted in accordance with law and orders of the Court^g, is strictly regulated and carry^{carried} out in a manner prescribed under rules and to ensure that least dust^{is} has emitted into air/atmosphere and all steps are taken to prevent the same.
- (xv) The Corporation, DDA, HUDA, NOIDA, Greater NOIDA Authority and all other Authorities and instrumentalities of the state and its department shall make all efforts to increase the 'tree cover' area by planting large number of trees of various species depending upon the quality content of soil

and other natural attendant circumstances.

- (xvi) All the builders who are building commercial, residential complexes which are covered under the EIA Notification of 2006 shall provide green belt around the building that they construct. All Authorities shall ensure that such green belts are in existence prior to issuance of occupancy certificate.
- (xvii) The state Government of NCT, Delhi, Haryana, Uttar Pradesh, state of Rajasthan, all Public Authorities in these states, Corporations, Development Agencies and all other Authorities persons and Departments of the state Government, Pollution Control Boards and Police Authorities shall ensure complete and expeditious compliance of all these directions with immediate effect.
- a. The Station House Officer, Environmental Engineers, Engineers of the Corporation and of all the Regulatory and Development Authority responsible for sanctioning of plan, granting consent and issuance of completion certificate would be personally and strictly responsible for compliance of these directions in the area/areas that fall under their jurisdiction. In the event of default they shall be liable to pay compensation for such environmental degradation or for pollution of ambient air quality in NCR, Delhi particularly.
- b. If any person, owner and or builder is found to be violating any of the conditions stated in this order and or for their non-compliance such

person, owner, builder shall be liable to pay compensation of Rs. 50,000/- per default in relation to construction activity at its site and Rs. 5,000/- for each violation during carriage and transportation of construction material, debris through trucks or other vehicles, in terms of Section 15 of the NGT Act on the principle of Polluter Pay. Such action would be in addition ^{and} not in derogation to the other action ⁱⁿ that the Authority ~~made~~ ^{may} take against such builder, owner, person and transporter under the laws in force.

c. The Government of NCT, Delhi shall take immediate step to enhance the capacity of its plant for reutilisation and recycling of C&D waste. It is undisputed on record that NCR, Delhi is generating nearly 4000 MT of C&D waste every day and the capacity of the plant is not able to utilised ^{ed} even 10% of such generated waste. All builders shall ensure that C&D waste is transported in terms of this order to the site in question only and due record in that behalf shall be maintained by the builders, transporters and NCR of Delhi.

d. We make it clear that even if constructions have been started after seeking Environmental Clearance under the EIA notification 2006 and after taking other travel but is being carried out without taking the preventive and protective environmental steps as stated in this order and MoEF guidelines, 2010, the State Government,

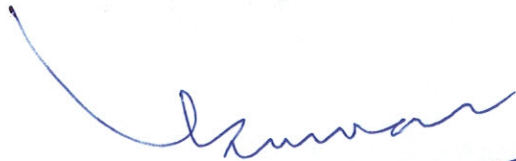
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SPCB and any officer of any department as aforesaid shall be entitled to direct stoppage of work.


In relation to Lajpat Nagar, we make it clear that the cement Jersey Barriers would be placed at both the ends of the road. There shall be no crossing permitted from one end ~~of~~ ^{to} ~~to~~ the road ~~and~~ another end of the road. In other words, there would be no intersection. We are informed that the parking space as provided by the Board is able to accommodate nearly 550 cars which would have ^{ve} provided a great relief to the traffic congestion in Lajpat Nagar. This arrangement would continue in terms of the order of the Tribunal till further order. Police Authorities present before the Tribunal, shall ensure that all the directions issued by the Tribunal in regard to the de-congestion of traffic thus resulting in minimum emissions from vehicular pollution should be carried out strictly without default. The CPCB shall place on record ambient air quality analysis pre orders and post orders. We are informed that data of ambient air quality for 2007 to 2009 have been placed on record. The CPCB shall prepare a comparative table and DPCC shall fully assist in that behalf. Reference in the air quality report shall be also made regarding existing ^{weather} ~~climate~~ condition at the time of collection of sample. Needless to mention that Delhi Metro is carrying on huge construction activities in Delhi, its public benefit and public importance cannot be denied but still they are required to ensure that they do not cause any air pollution. Therefore we direct Delhi Metro or any other Government or private construction agency carrying on massive construction project that they will strictly adhere to construction activities in terms of this


order and the guidelines contained in MoEF guidelines, 2010. The Learned Counsel appearing for the State of Haryana, State of U.P., NOIDA and Greater NOIDA submit that they will ensure that the directions of this order and that of 16.03.2015 will be complied with forthwith. The MCD, South will file an affidavit by the next date of hearing positively stating as to which place in Lajpat Nagar they would build the multi level parking. Chief Engineer would be present before the Tribunal on the next date of hearing.


List this matter on 17th April, 2015 at 02:00 PM.


.....,CP
(Swatanter Kumar)


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


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


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


.....,EM
(B.S. Sajwan)