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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1346/2015**

COURT ON ITS OWN MOTION (AIR POLLUTION IN DELHI) Petitioner

Through : Mr Kailash Vasdev, Sr Advocate, Amicus
Curiae with Mr Shreyans Singhvi, Mr Sumer
Sandhu and Mr Umrao Singh Rawat

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr Ajjay Aroraa with Mr Kapil
Dutta for SDMC
Mr Anil Grover with Ms Kanika Singh and
Ms Noopur Singhal for R-5.
Mr Pawan Mathur, Mr Dhanesh Relan and
Mr Arush Bhandari for DDA.
Mr Vivek Goyal with Ms Namisha
Gupta for UOI
Mr Sunil Satyarthi for Delhi Cantonment Board
Mr Mukesh Kumar for R-19/NHAI
Mr Ajay Digpaul with Mr Kunal
Gosain for UOI.
Mr Shubham Puri for Gaurang
Kanth for EDMC
Mr Sanjeev Ralli for DPCC
Ms Latika Choudhary for Ms Avnish
Ahlawat for DTC
Mr Sanjay Lao with Mr Siddarth Sindhu along
with Mr Romil Banniya, IPS, Dy.
Commissioner of Police, HQ. Traffic with
Insp. Kailash Bisht, Legal Cell, Traffic
Mr Peeyoosh Karla for Mr Rahul Mehra and
Mr Sanyog Bahadur for GNCTD.
Mr Satyavan Kudalwal along with Mr Puneet
Garg, Law Officer, DMRC
Mr Abhishek Paruthi for R-6/CPCB.
Mr Jeetender Gupta for intervener
in CM 29408/2015.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER
21.12.2015

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We had a detailed hearing on various compliances which were supposed to have been done by the various authorities which are before us.

The following points have emerged.

- (1) We note that an affidavit, which was supposed to have been filed by the Government of NCT of Delhi and, particularly, by the PWD, pursuant to our order dated 24.04.2015, has not yet been filed.
- (2) Another affidavit, which was supposed to have been filed by the Government of NCT of Delhi pursuant to our order dated 03.12.2015 in CM 29407/2015, has not yet been filed.
- (3) The Central Government has also not given an adequate response as to what steps have been taken under the National Capital Region Planning Board Act, 1985 in dealing with pollution related issues in the national capital region. The learned counsel appearing for the Union of India shall file an affidavit stating clearly what are the requirements as per the Regional Plan and the Sub-Regional Plans under the National Capital Region Planning Board Act, 1985 with regard to pollution and for avoiding environmental degradation. Furthermore, the affidavit shall indicate as to the extent to which the measures, said to have been put in place through the regional and the sub-regional plans, have actually been worked out and put in place.
- (4) On the previous occasion, that is, on 03.12.2015, we had specifically asked the Central Government to spell out its action plan, divided into short-term, medium-term

and long-term, in tackling the problem of air pollution in the Delhi/NCR area. That has not happened. The same be done before the next date of hearing.

(5) The Action Plan, which was required to be submitted by the Government of NCT of Delhi which, essentially, centred around the issues of deforestation and the maintenance of forests in Delhi, has not been submitted. We had required the Government of NCT of Delhi to bring out bring out a concrete plan with specific timelines on the issues of deforestation and the maintenance of forests in Delhi and, in fact, the learned counsel for the Government of NCT of Delhi had stated that he would be submitting a PERT chart giving specific time-lines and assigning clear responsibilities before the next date of hearing. That has not happened. That affidavit be filed within two weeks.

(6) Mr Ralli has submitted a document entitled 'Action Plan of Government of NCT of Delhi for Air Pollution Control', which we have taken on record. On going through the said action plan, we do not find any distinct and definite timelines and responsibilities which have been placed on various departments/agencies. Mr Ralli states that a detailed affidavit in support of this action plan is ready and will be filed within two days.

(7) From the arguments that were heard today, it is evident that specific legislations and statutory rules are already in place for ensuring that the ambient air quality norms are not exceeded. It is only that the people upon whom the responsibility to act has been placed, have not done their work. There are various enactments, such as the Environment (Protection) Act, 1986 and the Rules made thereunder, the Air (Prevention and Control of Pollution) Act, 1981 and the Rules made thereunder, the National Capital

Regional Planning Board Act, 1985 and the Regional and the sub-Regional Plans made thereunder. We have also noticed the Municipal Solid Wastes (Management and Handling) Rules, 2000, which deals with the manner in which solid wastes are to be dealt with, which includes the issue of landfill sites. A lot of dust pollution and even noxious gases tend to emanate from these landfill sites and unless and until the clear-cut regulations and rules prescribed under the Municipal Solid Wastes (Management and Handling) Rules, 2000 are followed the position is only going to worsen.

(8) We find that apart from the Central Government, which has the overall responsibility of ensuring that there is proper and adequate management of the NCR region, it is the State Governments and, particularly, the Government of NCT of Delhi and the Delhi Pollution Control Committee which have been entrusted under the various statutory provisions for ensuring that the air pollution levels in Delhi do not exceed the norms prescribed. We are, therefore, making it known to all officers and agencies that it is their prime duty to ensure that all the statutory provisions, rules and regulations are followed in letter and spirit because the situation that prevails today is of an emergency nature. Had all the authorities functioned as per the statutes and the rules, this situation would not have arisen. As an example, we may point out that the norm for PM 10 is 100 micrograms per cubic metre and for PM 2.5, it is 60 micrograms per cubic metre per day. But, the monitoring stations of the Delhi Pollution Control Committee show that the readings are far in excess of 400-500 micrograms per cubic metre in both cases.

(9) Since it has been said that the pollution levels have gone up on a year to year basis, rather than making a comment on the basis of hearsay evidence, we require the

Delhi Pollution Control Committee to analyse the data available with it from 2011 onwards to provide this Court with information of the monthly average concerning each of the pollutants, as specified in the notification dated 18.11.2009 for the years 2011 till date. Another exercise be done with regard to the months of October, November, December, January and February on a weekly average basis from the year 2011 onwards.

(10) The Delhi Pollution Control Committee shall also furnish copies of any reports under Section 45 of the Air Act, 1981 and any action/prosecution initiated by them during the last five years under the provisions of the said Act.

(11) We notice that despite our directions that there shall be zero tolerance especially with regard to vehicular traffic in the wrong carriage way, such violations are taking place without the traffic authorities doing anything about it. They shall ensure that lane driving is maintained and traffic violations are minimized because this goes on long way in reducing the idling time and thereby reducing pollution in the air.

(12) On 20.10.2015, we had given the direction with regard to the encroachments in the forest areas and we had also appointed the Secretary, PWD, Government of NCT of Delhi as the Nodal Person to supervise and report directly to this Court with regard to the action taken from time to time. He was required to submit a status report with regard to the same within four weeks. But that has not happened because we are told that the said officer has gone on long leave. The Government of NCT of Delhi shall give the name of another officer in place of the earlier one and the report shall be filed before the next date of hearing.

(13) With regard to the status report filed by the DCP, Headquarters (Traffic),

Mr Vasdev, the learned Amicus Curiae, may kindly go through the same and make his submissions thereon on the next date of hearing.

(14) The Government of NCT of Delhi as well as the Municipal Corporations in Delhi were required to publicise, through radio, television and print media that burning of leaves, garbage, plastic and rubber in the open is prohibited and that it causes air pollution. But, there has been no action on this part by the Government. Mr Ralli, the learned counsel appearing on behalf of the Government of NCT of Delhi, states that some advertisements have been introduced in the media, but we have not seen any of them. In case there has been any publicity, as directed by us, details of the same be furnished in the form of an affidavit. The same goes for dissuading people from excessive use of fireworks in celebratory events.

Renotify on 14.01.2016.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

DECEMBER 21, 2015
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SANJEEV SACHDEVA, J