

\$~14 and 15

* **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. Adv. with Mr Sumer Singh Sandhu, Ms Divija Rajkhowa and Mr Umrao Singh Rawat, Advs, Amicus Curiae.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Vivek Goyal, CGSC with Ms Namisha Gupta, Adv. for UOI.

Mr Rahul Mehra, Adv. with Mr Satyakam, Adv.

Mr Pawan Mathur, Adv. for DDA.

Mr Gaurang Kanth, Adv. with Ms Biji Rajesh, Adv. for EDMC.

Mr Anil Mittal, Adv. with Ms Komal Aggarwal, Adv. for State of U.P.

Mr Avnish Ahlawat, Adv. for DTC.

Mr Sanjeev Ralli, Adv. with Mr Ravin Kapur, Mr Trinayan Sonowal, Adv.

Insp. Akhilesh Mishra- TI/Legal Cell Traffic with SI Ramtirath (Pairvi Officer Traffic).

Mr Parag P. Tripathi, Sr. Adv. with Mr Asheesh Jain, Mr Yudhvir Singh and Mis Mishika Bajpai, Adv. and Mr Manpreet Singh, IAS, Chairman Punjab Pollution Control Board, Patiala, Dr. Babu Ram, Member Secretary, Punjab Pollution Control Board, Mr Manmohan Kalia, Agriculture Engineer, Punjab, Mr Anil Sharma, Assistant Engineer-II, Department of Agriculture and Mrs Divya Aggarwal, Assistant Environmental Engineer, Punjab Pollution Control Board, Patiala.

Mr Ajjay Aroraa, Adv. with Mr Kapil Dutta, Adv. for MCD.

Mr Sanjeev Ralli, Adv. with Mr R. Kapoor, Mr Trinayan Sonowal, Mr Dinesh Jindal, LO and Dr George, Scientist.

Mr Anil Grover, AAG Haryana along with Mr Mishal Vij, for State of Haryana.

Mr Mukesh Kumar, Adv. for NHAI.
Mr Ajay Digpaul, CGSC with Ms Mohita, Adv. for UOI.
Mr R.S. Suri, Sr. Adv. with Ms Pallavi, Ms Rekha and Mr Ashish Jain, Adv. for State of Punjab.

AND

+ W.P.(C) 2115/2015

SUDHIR MISHRA

..... Petitioner

Through: Mr Kailash Vasdev, Sr. Adv. with Mr Sumer Singh Sandhu, Ms Divija Rajkhowa and Mr Umrao Singh Rawat, Advs, Amicus Curiae.
Ms R. Nanda, Adv.

versus

MINISTRY OF HEALTH & FAMILY WELFARE & ORS.... Respondents

Through: Mr Vivek Goyal, CGSC with Ms Namisha Gupta, Adv. for UOI.

Mr Rahul Mehra, Adv. with Mr Satyakam, Adv.

Insp. Akhilesh Mishra- TI/Legal Cell Traffic with SI Ramtirath (Pairvi Officer Traffic).

Ms Manisha Agrawal Narain, Adv. with Mr S.K. Sharma, Scientist, CPCB.

Mr Dhanesh Relan, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

18.11.2016

Mr Parag Tripathi, the learned senior counsel appearing on behalf of the State of Punjab, submits that a better affidavit would be filed on behalf of the State of Punjab. This is so because we feel that the present affidavit, which has been filed, indicates that the State of Punjab is still in denial mode. Furthermore, the affidavit that is to be filed should indicate a clear-

cut plan for the future. The stubble burning/biomass burning is virtually over insofar as the current year is concerned. But, this problem would arise next year again in October-November. We are informed that the State of Punjab alone produces 17 million tonnes of paddy straw annually. Only a small percentage of it is utilised either by paper and cardboard companies or for converting the same into energy or for the purposes of fertilizers. The bulk of the paddy straw is burnt and that is one of the major causes for the spike in the pollution levels not only in Punjab but also in Delhi. The statistics and figures have already been indicated in the previous occasion. We direct the Central Pollution Control Board to indicate after analysing the data scientifically as to how much of the paddy straw per metric tonne which is burnt ends up as PM 2.5 and PM 10 as also other noxious gases and pollutants. The CPCB shall file an affidavit to this effect.

The State of Punjab shall in the affidavit which is to be filed clearly indicate time lines with regard to the action proposed to be taken so as to eliminate stubble burning/biomass burning completely in the next year. Clear way-points shall be marked out in the affidavit and we shall monitor the same.

Another major cause of concern is the fact that in Delhi all taxies were supposed to have been converted to CNG but a large number, possibly around 40000 taxies, are still running on diesel. We are also informed that there are also 35000 taxies in Delhi with an All India Permit which are

running on diesel. We are also informed that the taxies running in other States, that is, Punjab, Haryana, Rajasthan and Uttar Pradesh are also mostly diesel based. The All India Permits which are granted by these States for taxies to ply inter-state should also be streamlined so as to result in diesel taxies being converted into CNG taxies. This is so because the taxies with the All India Permit in these States come into and go out of Delhi. A clear-cut plan of action should be furnished by each of the States i.e. Punjab, Haryana, Rajasthan and Uttar Pradesh. Each of the States shall file affidavits and the affidavit of the State of Punjab shall include this aspect also. The affidavits should clearly indicate the plans that have been drawn up or are being drawn up to attain this objective. All these affidavits by the States, as also by the CPCB, shall be filed within three weeks from today.

Another problem with regard to air pollution in Delhi is the burning of garbage in sanitary landfill sites at Bhalaswa, Gazipur and Okhla. Mr Vasdev, the learned amicus curiae, showed us photographs and video clips of his recent visit to the Bhalaswa landfill and we could clearly see fires burning in the landfill site. People residing next to these landfill sites are subjected to serious health hazards. The smoke that emanates from the garbage in the landfill sites forms part of the polluted air that citizens all across Delhi breathe. They contain not only small particulate matter such as PM 2.5 and PM 10 but also other carcinogens. The Municipal

Corporations of Delhi are responsible for the landfill sites and they shall ensure that all fires in these landfill sites are extinguished with immediate effect. Affidavits with photographs indicating the same shall be filed before the next date of hearing.

Another aspect which needs consideration is the pollution contributed by road dust and construction. Judicial notice can be taken of the same. At every construction site, whether it is repair of roads or construction of buildings or placing of pipe lines, after the activities are completed the area is left without clearing up. In another writ petition we have directed all the agencies to remove all the rubble and debris left on and along side roads and all public areas such as markets etc. That direction is reiterated by us here also. All the agencies in Delhi are represented before us and they shall ensure that this is taken as an emergent measure so that air pollution is minimised to the extent possible. Insofar as the construction sites are concerned, the MCD, DDA, PWD and NDMC shall ensure that each of the construction sites, whether they are public sector construction sites or of private builders, is kept debris free and there is proper clean up and removal of all construction debris on a day-to-day basis. If this is done, the particulate matter, which comprises of construction dust or road dust, shall be reduced and would see an improvement in the air quality levels. Insofar as the existing air quality levels are concerned, we have got the readings of the city average for 17.11.2016 and we find that PM 2.5 is at

208 and PM 10 is at 438, which are both approximately four times more than the prescribed standards. We also direct that the National Capital Region Planning Board should have a meeting within three weeks and a status report be filed with regard to the said meeting.

Issue fresh notice to NTPC, through its standing counsel/nominated counsel, returnable on 25.11.2016.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

JAYANT NATH, J

NOVEMBER 18, 2016
kb