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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1346/2015 & CM 35024/2016

COURT ON ITS OWN MOTION (AIR POLLUTION IN DELHI)

..... Petitioner

Through Mr Kailash Vasdev, Sr. Adv. (Amicus Curiae) along with Mr Sumer Singh Sandhu, Ms Divija Rajkhowa and Mr Umrao Singh Rawat, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr Anil Mittal and Ms Komal Aggarwal, Advs. for State of U.P.
Mr K M M Khan, Adv. for applicant Sanjay Colony Bhati Mines.
Mr Puneet Taneja and Ms Shaheen, Advs. for NTPC.
Mr Amit Gupta, Adv. for National Capital Region Planning Board.
Mr Shiv Sharma, Adv. for Mr Peeyoosh Kalra, ASC for GNCTD.
Mr Sanjay Poddar, Sr. Adv.
Mr Ajay Diggpaul, CGSC with Ms Mohita and Ms Madhuri, Advs. for UOI.
Mr R.S. Suri, Sr. Adv. along with Ms Pallavi and Mr Naginder Benipal, Advs. for State of Punjab.
Mr Rahul Mehra, Sr. Standing Counsel for the State.
Mr Abhishek Paruthi, Adv. for CPCB.
Mr Pushkar Sood, Adv. with Ms Akshita Chhatwal, Adv. for DMRC.
Mr Pawan Mathur, Standing Counsel for DDA along with Mr R.R. Sharma, Director Survey Planning.
Mr Vivek Goyal, CGSC with Ms Namisha Gupta, Adv. for UOI.

Mr Ajjay Aroraa, Adv. with Ms Diksha Lal & Ms Surbhi Gupta, Advs. for NDMC and SDMC.
Mr Sanjay Lao, Adv. for Delhi Traffic Police.
Mr Sanjeev Ralli, Adv. with Mr Ravin Kapur, Ms Trinayan Sonowal, Advs. for DPCC.
Mr Anil Grover, Standing counsel with Ms Kanika Singh, ASC with Mr Rishi Vohra, Adv. for NDMC.
Mr Avnish Ahlawat, Adv. for DTC.
Ms Bhavana Dahoon, Adv. for R19.
Mr Anchit Sharma, Adv. with Tarveen Singh Nanda, Adv. for DCB.
Mr Gaurang Kanth, Adv. with Mr Mohanjit Singh, Adv. for EDMC.
Sh. Ashok Kr. Tyagi, ACP/East, Sh. Madan Gopal, ACP/HQ, Insp. Dinesh Kumar, TI/Vivek Vihar & SI Ram Tirath, Pairvi Officer, Traffic.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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12.01.2017

CM 640/2017

The learned counsel for the DDA states that a committee has been formed and any encroachment and removal of timber and felling of trees shall be stopped forthwith. He submits that status report after full investigation would be placed before this Court before the next date of hearing.

W.P.(C) 1346/2015

The State of Punjab has filed an elaborate affidavit on 06.01.2017. We have been taken through the portions of the affidavit by the learned Amicus Curiae. Our attention has particularly been drawn to page 3782 of the paper book

where the sequence of reduction in manageable paddy residue has been indicated.

It is stated as under in the said affidavit:

“b) The State of Punjab in compliance of the orders of this Hon’ble Court dated 18.11.2016 has prepared an action plan to manage the remaining quantity of 15.40 million tonnes of paddy residue generated from the cultivation of the coarse rice in the State. The plan is to manage the said quantity in a time period of three years i.e. 2017-18, 2018-19 and 2019-20. During the year 2017-18, 3.64 million tonnes of paddy residue generated from the cultivation of coarse rice will be managed by the way of diversification, by providing equipment to the Primary Agricultural Cooperative Societies (PACS)/ Farmer Groups / Farmer Producer Organizations / Farmer Entrepreneurs and Farmers and through aggregation and collection of straw for industrial and other uses, in the year 2018-19, 3.91 million tonnes and during the year 2019-20, 7.99 million tonnes of paddy straw will be managed by the above means.

- Total paddy residue is 19.70 million tonne out of which 2.7 & 1.6 million tonnes are managed. Therefore, $19.70 - 2.7 - 1.6 = 15.40$ million tonnes is left unmanaged.
- As per Action plan in 2017-18, additional 3.64 million tonnes paddy residue will be managed. Therefore, $15.40 - 3.64 = 11.76$ million tonnes will be left unmanaged.
- As per Action plan in 2018-19, additional 3.91 million tonnes paddy residue will be managed. Therefore, $11.76 - 3.91 = 7.85$ million tonnes will be left unmanaged.
- As per Action Plan in 2019-20, additional 7.99 million tonnes paddy residue will be managed. Therefore, complete paddy residue will be managed.

This cumulative quantity comes out to be 15.40 million tonnes as tabulated below:

S.No.	Year	Plan for Management of Paddy Residue (million tonne)			
		By way of Diversification (from Annexure R-PB/26)	By way of providing equipment (From Annexure R-PB/26)	By way of industrial use (From Annexure R-PB/26)	Total Quantity
1	2017-18	1.14	1.80	0.70	3.64

2	2018-19	0.59	2.02	1.30	3.91
3	2019-20	0.58	2.11	5.30	7.99
4	Total quantity of paddy residue during 2017-18, 2018-19 and 2019-20.				1.54 million tonne

From the above, it is apparent that till the year 2019-20, the management of paddy residue would not be complete. In other words, there would be stubble burning in 2017, 2018 and 2019, upto 2020 which would mean that the air pollution situation would not improve significantly on account of reduction and stubble burning till 2020. We are of the view that since air quality not only in Delhi but in surrounding areas including the Punjab has also deteriorated to alarming levels, this action plan should be substituted by another one which ensures that there is no paddy residue burning in 2017 itself. Insofar as other aspects are concerned, we shall take up this affidavit after the elections in Punjab are over.

On a previous occasion, i.e., on 15.12.2016, we had directed that the air quality figures pertaining to PM 2.5 and PM 10 at Anand Vihar be separately given and the average of the other areas be also provided. The submission at that point of time was that the average readings for Delhi were being hiked up because of the exceedingly high figures for Anand Vihar. Now that the readings are before us in the form of tables and charts which have been handed over by Mr Ralli appearing for DPCC (which we are taking on record), it has become evident that there is a marked difference between the average concentration of PM 2.5 and PM 10 in the readings for Anand Vihar separately and in the average for rest of the stations. The difference in the PM10 figures is much more marked than the difference in the PM 2.5 figures. In fact, on an average PM10 readings of Anand Vihar are approximately 96% higher than the average figures for the other stations. This clearly means that there is something drastic which is taking place

in the Anand Vihar area.

From the discussion before us, it appears that one of the major contributories of the very high levels of concentration of PM 2.5 and PM 10 in the Anand Vihar area is the result of chaotic traffic conditions leading to idling emissions as also on account of construction and roadside debris. It has been pointed out to us that free flow of traffic is also hampered by the encroachment of public roads. The public roads fall within the jurisdiction of either the East Delhi Municipal Corporations or the PWD. Traffic management is within the control of Delhi Police and the bordering area in UP falls under the Senior Superintendent of Police, Gaziabad. There is another agency, that is, the Northern Railways as there is railway station in Anand Vihar. The above agencies are directed to take up the matter on a war footing and ensure that in Anand Vihar, traffic management is optimised and there is a free flow of traffic. In order to attain this result, the East Delhi Municipal Corporation and the PWD shall also take steps to ensure that the public roads are free from any encroachments. The condition of the roads also needs to be looked into as, from the photographs which were shown to us, we found that there were several potholes and breakages in the road surfaces. The East Delhi Municipal Corporation and the PWD shall ensure that the roads which fall under their respective jurisdictions are repaired and that they are kept free from any encroachments so that there is a free flow of traffic. These measures be undertaken immediately and a status report be filed before the next date of hearing.

The Commissioner, East Delhi Municipal Corporation; Special Commissioner (Traffic), Delhi; Secretary, PWD, Government of NCT of Delhi; the Resident Commissioner, UP and the General Manager, Northern Railways, shall ensure that these directions are complied with.

We are also informed that the meeting of the National Capital Region Planning Board was held on 20.12.2016. At the conclusion of the meeting,

minutes were drawn up and the minutes, inter alia, read as under:-

“After detailed deliberations, the Board decided the following:

- (i) The representation submitted by Shri Kailash Vasdev, Senior Advocate, & Amicus Curiae, be circulated to the concerned Central & State Govts. and their Agencies for examination and appropriate inclusion in their respective Action Plan.
(Action: NCRPB)
- (ii) Specific recommendations/Plan of Action of the “Comprehensive Study on Air Pollution and Green House Gases (GHGs) in Delhi” conducted by IIT-Kanpur be circulated as part of Board’s recommendations, to the Concerned Central & State Govts. and their Agencies for implementation.
(Action: NCRPB)
- (iii) Concerned Central & State Govts. and their Agencies will file their Affidavits before the High Court of Delhi in line with the deliberations/decisions of today’s meeting.
(Action: Concerned States and Agencies)”

This was discussed under Agenda Item No.1, which read as under:-

“1. AGENDA ITEM NO. 1: FOLLOW-UP ACTION ON THE DIRECTIONS OF THE HON’BLE HIGH COURT OF DELHI DATED 18.11.2016 IN THE MATTER OF “COURT ON ITS OWN MOTION (AIR POLLUTION IN DELHI) VS. UNION OF INDIA & ORS.” [W.P.(C)1346/2015]: AIR POLLUTION IN DELHI”

Renotify on 02.02.2017 at 2:15 pm.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JANUARY 12, 2017/ab/sr