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

+ W.P.(C) 1346/2015 & CM APPL. Nos. 35024/2016, 640/2017, 4383-4384/2017, 8565/2017, 18856/2017, 26231-26233/2017, 36912/2017 & 40871/2017

COURT ON ITS OWN MOTION (AIR POLLUTION IN DELHI)

..... Petitioner

Through: Mr. Kailash Vasdev, Sr. Adv. Amicus Curiae with Mr. Umrao Singh Rawat, Ms. Nayantara & Ms. Limayinla Jamir, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ajay Digpaal, CGSC with Mr. Soumava Karmakar & Mr. Aaryan Verma, Advs. for UOI.
Ms. Puja Kalra, Adv. for SDMC & North MCD.
Mr. Sanjeev Ralli, Mr. Atul Verma & Mr. Rahul Ranjan, Advs. for DPCC.
Mr. Aman S. Bakhshi, Adv. for CAG & EDMC.
Ms. Shreya Sethi, Adv. for NHAI.
Mr. Vivek Goyal, CGSC with Mr. Ram Krishan Kumar & Mr. Dhirendra Kumar Yadav, Advs. for UOI.
Mr. Balendu Shekhar, Mr. Vipul & Mr. Raj Kumar Maurya, Advs. for R-2.
Mrs. Avnish Ahlawat, Standing Counsel with Mr. N.K. Singh, Adv. for DTC.
Mr. Puneet Taneja & Mr. Manmohan Singh Narula, Advs. for NTPC.
Mr. Pawan Mathur, Standing Counsel for DDA.
Mr. Zahid Hanief, Adv. for



Mr.Naushad Ahmed Khan, ASC
(Civil) for GNCTD.

Mr. Pushkar Sood, Adv. for DMRC.

Mr. Anil Grover, Standing Counsel
for NDMC with Mr. Mishal Vij, Adv.

Mr. Om Prakash, Adv. for Northern
Railway.

Insp. Satender Mohan Tiwari, Vivek
Vihar Circle with ASI Virender
Singh, Pairvi Officer, Traffic.

+ W.P.(C) 2115/2015 & CM APPL. Nos. 7298/2015, 10198/2017 &
53267/2018

SUDHIR MISHRA

..... Petitioner

Through: Ms. Ritwika Nanda, Mr. Petal
Chandhok & Ms. Sanya Ahluwalia,
Advs.

versus

MINISTRY OF HEALTH & FAMILY WELFARE & ORS

..... Respondents

Through: Mr. Vivek Goyal, CGSC with
Mr.Ram Krishan Kumar &
Mr.Dhirendra Kumar Yadav, Advs.
for UOI.

Mr. Dhanesh Relan, Standing
Counsel with Mr. Paritosh Dhawan,
Adv. for DDA.

Mr. Sanjeev Ralli, Mr. Atul Verma &
Mr. Rahul Ranjan, Advs. for DPCC.

Mr. Zahid Hanief, Adv. for
Mr.Naushad Ahmed Khan, ASC
(Civil) for GNCTD.

+ W.P.(C) 6622/2018 & CM APPL. Nos. 25337-25339/2018

MIHIR GARG & ANR.

..... Petitioners

Through: Mr. Mihir Garg & Ms. Rashi Jain,
petitioners in-person.



versus

GOVT. OF STATE OF NCT & ANR.

..... Respondents

Through: Mr. Zahid Hanief, Adv. for
Mr. Naushad Ahmed Khan, ASC
(Civil) for GNCTD.
Mr. Balendu Shekhar, Mr. Vipul &
Mr. Raj Kumar Maurya, Advs. for
DPCC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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14.11.2019

This matter is being pending since 09th February, 2015. Detailed orders have been passed from time-to-time for taking steps to curb air pollution in Delhi. We are of the view that in case the measures suggested from time-to-time had been seriously implemented, pollution levels in Delhi would not have been as alarming as they are today.

2. In our view, the problem therefore lies in implementation; and not in any lack of ideas. There appears to be a complete lack of will to implement solutions. Orders lying on the court file will certainly not decrease pollution levels in Delhi. Administrators as also citizens will have to play a proactive role if we want to make Delhi pollution-free, not only for ourselves but for our future generations as well.

3. Some of the suggestions which have been consistently highlighted include afforestation of Delhi by planting trees. This may not be a short-term solution but we are looking at long-term measures as well. The report of the Comptroller Auditor General has been referred to in detail by Mr. Kailash Vasdev, learned Senior Advocate and *Amicus Curiae* in this matter, which



records that while much is required to be done, the Forest Department has not been able to meet its targets. If the matter is to be looked at from the long-term perspective, plantation of trees and afforestation of Delhi is a very important aspect and we cannot afford to neglect the same.

4. Counsel for the Forest Department submits that in the Asola-Bhatti Wildlife Sanctuaries, demarcation of forest areas has been carried-out but there is large scale encroachment and the handicap is that stay orders have been obtained by several parties from various courts, hampering the process.

5. We direct counsel for the Forest Department to prepare a list of matters pending in courts to enable this court to get a clear view as to how many such matters are pending and in which courts. We request the Chief Forest Officer to remain present in court on the next date with details as to the number of trees planted from 01.01.2018 to 31.12.2018. This court would also like to know as to what is the plan of the Forest Department to increase the green cover and for removal of encroachment from the forest area in the near future.

6. Mr. Vasdev, learned senior counsel has also flagged three other aspects that require immediate attention. He contends that construction dust is one of the major reasons for hazardous levels of particulate matter, since admittedly the pollution levels are highest between the months of October and January. Learned Amicus suggests that even in that aspect, it is demolition of buildings and structures that generate the maximum construction dust; and that therefore demolition of buildings should not be allowed during these months. For ongoing construction, steps should be taken to ensure that sand and other building material is not left uncovered and should be regularly sprinkled with water, so that it is not blown about by



the breeze.

7. Mr. Vasdev also submits that if traffic is streamlined and obstructions on roads are cleared, there would be less vehicular pollution that results from idling and slow moving vehicles. Mr. Vasdev points-out that, as a result of non-enforcement, people are being allowed to occupy public lands, including pavements, which not only obstruct the free movement of traffic but also lead to various other issues including extensive use of coal and wood for other domestic cooking.

8. Since it is pointed-out that even the areas falling under NDMC have not been spared, counsel for New Delhi Municipal Council has taken note of some of these areas where the encroachment is blatant and ongoing; and assures that the suggested, necessary steps would be taken forthwith.

9. The issue of unpaved roads and heaps of *malba* which is lying unattended on almost every road in Delhi, would also require attention. We direct MCD, NDMC, DDA, PWD and Cantonment Board to fix responsibility on persons to ensure that unattended *malba*, and construction material is removed.

10. We also make it clear that this exercise should be done in a routine and regular manner, not only on days just before court hearings; and that necessary circulars should be issued and senior officials should be given the responsibility to monitor the same, including by inspecting various areas to satisfy themselves that orders are being complied with.

11. The respondents and concerned Government Departments shall file affidavits specifying as to how the directions passed by the court are being implemented.

12. We expect all Standing Counsels for the municipal corporations and



other concerned government departments to remain present on the next date of hearing.

13. Renotify on 02nd December, 2019 at 2:15 pm.

14. Order be given *dasti*.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

NOVEMBER 14, 2019/uj