

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION(S)(CIVIL) NO(S). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: COMMISSION FOR AIR QUALITY MANAGEMENT (CAQM) 1) I.A. NO. 235980/2024 (APPLICATION FOR INTERVENTION) 2) I.A. D. Nos. 50346, 50347, 50349 and 50350 of 2020 (APPLICATIONS DIRECTION AND APPEAR AND ARGUE IN-PERSON) 3) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON)

NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST: MR. HARISH N. SALVE, SR. ADVOCATE (A.C.) MS. APARAJITA SINGH, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) MR. DEEPAK KHOSLA, APPLICANT-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. M.K. MARORIA MR. SANJAY KR. VISEN, MR. SUDEEP KUMAR, MR. KARAN SHARMA, MR. SANDEEP KR. JHA MR. JYOTI MENDIRATTA, MR. RAHUL KHURANA, MR. NIRAJ GUPTA (ADVOCATES)

Date : 11-11-2024 This petition was called on for hearing today.

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UPON hearing the counsel the Court made the following
O R D E R

IN RE: BAN ON FIRECRACKERS

1. As regards the ban on firecrackers, an affidavit has been filed by Shri K.S. Jayachandran, Special Secretary, Environment Department, Government of NCT of Delhi. A copy of an order dated 14th October 2024, by which a complete ban was imposed on the manufacture, storage and bursting of all categories of firecrackers from 14th October 2024 till 1st January 2025, is produced on record. As far as the implementation of the order is concerned, the Delhi Government has expressed helplessness as the same has to be implemented by the Delhi Police.

2. Ms. Aishwarya Bhati, learned ASG, appearing for the Delhi Police has invited our attention to an affidavit filed by Shri Hareesh H.P., Deputy Commissioner of Police, Legal Division, Police Headquarters, New Delhi. There is some substance in the grievance made by the learned ASG that the order imposing the ban was passed as late as on 14th October 2024. However, we find that the Delhi Police have not taken the implementation of the said order seriously. There is nothing mentioned in the affidavit to show that the order imposing the ban was communicated to those who have been permitted within the limits of the territory of NCT of Delhi to manufacture, store and sell the firecrackers, including those who sell the firecrackers online marketing platforms. The first thing the Delhi Police ought to have done was to inform all the licence holders and all those who indulge in the sale of firecrackers on online marketing platforms to stop the sale of the firecrackers forthwith. The purport of the said order is that even firecrackers could not have been stored during the ban period in the territory of NCT of Delhi.

3. We direct the Commissioner of the Delhi Police to immediately take action to inform all concerned about the said ban and ensure that during the subsistence of the said ban, no licence holder manufactures, stores or sells the firecrackers. The Delhi Police shall immediately inform those entities which sell firecrackers through online marketing platforms to stop the sale and delivery of the firecrackers within the limits of the territory of the NCT of Delhi. We direct the Commissioner of the Delhi Police to set up a

special cell for implementation of the order of ban and hold the Station House Officers of all the local Police Stations responsible for enforcing the said ban.

4. We wonder why the Delhi Government delayed the promulgation of the order till 14th October, 2024. It is quite possible that by that time, the users who used the firecrackers during the ban period must have acquired the stock of the firecrackers.

5. The right to live in a pollution-free atmosphere is a fundamental right of every citizen, protected by Article 21 of the Constitution of India. *Prima facie*, we are of the view that no religion encourages any activity which creates pollution. The use of firecrackers also affects the fundamental right to health of the citizens apart from creating noise pollution.

6. The learned counsel appearing for the Delhi Government states that the Government will decide on the question of extending the ban throughout the year after consulting all the stakeholders. We direct the Delhi Government to take an appropriate decision before 25th November, 2024.

7. We direct the Commissioner of the Delhi Police to take effective steps in terms of what we have observed above for implementing the order dated 14th October 2024 imposing a ban on firecrackers. We direct the Commissioner of the Delhi Police to file his personal affidavit before 25th November 2024, bringing on record the steps taken by the Delhi Police to implement the order imposing a ban on firecrackers.

8. We call upon the other NCR States to respond to the issue of banning the manufacture, storage, and sale of firecrackers and bursting of firecrackers within the limits of NCR States. All NCR States must respond before 25th November, 2024.

9. Meanwhile, we permit Ms Aparajita Singh, learned Senior Advocate appointed as *Amicus Curiae*, to place on record the earlier orders passed by this Court on the ban of firecrackers.

10. The Petition be listed at the end of the cause list on 25th November, 2024.

IN RE: VEHICULAR POLLUTION

11. We have perused the affidavit dated 30th October, 2024 filed on behalf of the Delhi Government by Shri K.S. Jayachandran, Special Secretary, Environment Department, Government of NCT of Delhi.

12. As far as the issue regarding pollution created by vehicles is concerned, we will hear the learned *Amicus Curiae* and other parties on 25th November, 2024. The Petition be listed at the end of the cause list.

13. The issue regarding directions issued by this Court about using colour-coded stickers is going to be considered on 3rd January 2025. The Petition be listed at the end of the cause list on that day.

IN RE: IMPLEMENTATION OF SOLID WASTE MANAGEMENT RULES, 2016

14. One of the important issues is the implementation of the Solid Waste Management Rules, 2016 (for short, "the 2016 Rules").

15. We direct the Chief Secretary of the Delhi Government to call a meeting of all the stakeholders, including the Municipal Corporation of Delhi, to discuss the issue of implementation of the 2016 Rules. All the stakeholders must come together and file a common report before this Court laying down the timelines for reporting compliance with the provisions of the 2016 Rules. This exercise of holding a meeting and coming out with a common response shall be completed by 13th December, 2024.

16. It is a matter of immense importance that the 2016 Rules are implemented in their true letter and spirit in the capital city. As we have been noticing in other cases also, the 2016 Rules have remained on paper. If in the territory of NCT of Delhi, there is a complete failure to implement the 2016 Rules, one can imagine what must be happening in the other cities in the other parts of the country. If we find that all other authorities do not come together and tell us the time-bound schedule for implementation of the 2016 Rules, the Court may have to consider of passing harsh orders. On one hand, there is no implementation of the 2016 Rules as a result of which the garbage/solid waste is being illegally stored in landfill sites which are prone to fires and, on the other hand, there are a large number of construction activities going on in the State which obviously adds to generation of solid waste and construction waste as well. The Delhi Government must come out with the figures for the daily generation of solid waste in the city while submitting the report. If the involvement of any department of the Government of India is required in the

implementation of the 2016 Rules, we authorise the Special Secretary of the Environment Department of the Delhi Government to call the concerned officers of the Union of India for the meeting. If the Special Secretary finds that any of the stakeholders are not cooperating, we permit him to move an application to this Court to seek directions. The Court will consider this aspect on 16th December, 2024.

17. The Petition be listed at the end of the cause list on 16th December, 2024.

IN RE: STUBBLE BURNING

18. We have perused the order dated 8th November, 2024 signed by the Deputy Commissioner (M&T), Ministry of Agriculture & Farmers Welfare (Department of Agriculture & Farmers Welfare) (Mechanization & Technology Division), Government of India, which is Annexure-F to the compliance report tendered by the Union of India today. We grant time of one week to the State Punjab to deal with this issue which will be considered on 22nd November, 2024.

19. The Petition be listed at the end of the cause list on 22nd November, 2024.

20. The compliance reports filed by the Governments of Haryana and Punjab indicate that there were a large number of farm fires during Diwali days. Even as of today, we find reluctance on the part of both Governments to take action in terms of Section 14 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 (for short, "CAQM Act").

21. The learned ASG appearing for the Commission states that the District Magistrates in the States have been authorised to initiate prosecution under sub-Section (2) of Section 14 of the CAQM Act. However, we find that instead of initiating prosecution, the States are busy issuing show-cause notices to the officers. We are talking about the flagrant breaches of the order of the Commission passed three years back. The States owe an explanation to the Court for their inaction.

22. We may note here a disturbing feature. Today, there are interventions sought by the farmers by contending that the States are not providing them with machinery and other equipment. The States cannot drive the farmers to this Court to make such grievances as it is at their level that they must sort out the issue of farmers. We direct the Governments of Haryana and Punjab to file better affidavits regarding action taken within a period of three weeks from today which will be considered on 16th December, 2024.

23. The Petition be listed at the end of the cause list on 16th December, 2024.

24. The learned ASG states that as regards the grievance regarding incorrect data being furnished by the Indian Space Research Organisation (for short, "ISRO"), we direct both the State Governments to raise the issue before the appropriate authorities of ISRO.

25. The compliance report filed by the Union Government brings on record two important aspects. One is that the Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024, have been published in the Official Gazette, and they have been brought into force. Similarly, the Commission for Air Quality Management in the National Capital Region and Adjoining Areas (Imposition, Collection and Utilization of Environmental Compensation for Stubble Burning) (Amendments) Rules, 2024, have been brought into force. We direct all concerned to implement these Rules in their true letter and spirit.

26. The compliance report also brings on record that now adjudicating officers have been appointed under the order dated 4th November, 2024. Therefore, we direct all concerned, including the States, to initiate action for recovery of penalty in accordance with Section 15 of the Environment (Protection) Act, 1986, for all the breaches covered by Section 15 as now the adjudicating machinery is in place. Even compliance on this aspect shall be reported to this Court before 16th December, 2024 by the States before filing an affidavit regarding non-compliance with the requirement of Section 14 of the CAQM Act.

(1) I.A. NO. 235980/2024 (APPLICATION FOR INTERVENTION); (2) I.A. D. Nos. 50346, 50347, 50349 and 50350 of 2020 (APPLICATIONS DIRECTION AND APPEAR AND ARGUE IN-PERSON); (3) I.A. NOS. 88585/2020, 16223, 16230, 16235, 16236/2021 (APPEAL AGAINST LD. REGISTRAR'S ORDER, APPLICATIONS FOR CONDONATION OF DELAY IN FILING, CONDONATION OF DELAY IN REFILING, DIRECTIONS, PERMISSION TO APPEAR AND ARGUE IN PERSON) AND (4) I.A. NO.252572/2024 (INTERVENTION

APPLICATION)

27. List on 22nd November, 2024 at the end of the cause list.

**(ASHISH KONDLE)
COURT MASTER (SH)**

**(AVGV RAMU)
COURT MASTER (NSH)**