

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 21 of 2014
(M.A. NO. 87 OF 2015, M.A. NO. 90 OF 2015, M.A. NO. 155 OF 2015, M.A. NO.
200 OF 2015, M.A. NO. 203 OF 2015, M.A. NO. 219 OF 2015,
M.A. NO. 234 OF 2015, M.A. NO. 247 OF 2015, M.A. NO. 248 OF 2015, M.A. NO.
274 OF 2015, M.A. NO. 283 OF 2015, M.A. NO. 284 OF 2015, M.A. NO. 382 OF
2015, M.A. NO. 392 OF 2015, M.A. NO. 393 OF 2015 & M.A. NO. 394 OF 2015)
AND

Original Application No. 95 of 2014

IN THE MATTER OF:

Vardhaman Kaushik Vs. Union of India & Ors.
And
Sanjay Kulshrestha Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER

Original Application No.21 of 2014

Present:

Applicant:

Respondent No.1:

Respondent No. 2&4:

Respondent No.3:

Respondent No.6&7:

Mr. Sanjay Upadhyay and Mr. Salik Shafique
Ms. Panchajanya Batra Singh, Adv.
Mr. Narendra Pal Singh, Adv. with Mr. Dinesh
Jindal, LO
Mr. D. Rajeshwar Rao, Adv. Counsel for Delhi
Traffic Police
Mr. Ardhendumauli Kr. Prasad, Adv.
Mr. Rajiv Bansal and Mr. Kush Sharma, Adv. For
DDA
Ms. Puja Kalra, Adv. For SDMC and North MCD
Mrs. Avnish Ahlawat with Mr. Nitish Singh for
DTC/Transport Department, GNCT
Mr. I.K. Kafila, Mr. A.K. Singh and Mr. Shikha
Roy, Adv. For Karol Bagh Traders
Mr. Ruchir Batra, Adv.
Mr. Rahul Mehta, Adv. For Delhi Electrical
Traders Association
Ms. Savitri Pandey and Ms. Azma Parveen, Adv.
for State of U.P.
Ms. Sakshi Popli, Adv. for NDMC
Mr. Pragyan Sharma and Mr. Deshu Kayina,
Adv. For State of Mizoram
Mr. K.V. Jagdishvaran and Mrs. G. Indira, Adv.
For UT of Andaman & Nicobar Islands
Mr. Anil Grover, AAG and Mr. Rahul Khurana,
Adv. For State of Haryana
Mr. Ravindra Kumar, Adv. And Mr. Gudipati G.
Kashyap, Adv. for NOIDA and Greater NOIDA
Authority
Mr. Mukesh Kumar, Adv. For NHAI
Mrs. Aruna Mathur and Mr. Auneesh Arputham,
Adv. For State of Sikkim
Mr. Rajul Shrivastava, Adv. For MPPCB
Mr. Devraj Ashok, Adv. For State of Karnataka
Mr. Sahil Sangar, Adv. -Local Commissioner
Mr. Sahil Savgar and Ms. Sayewa Mubin, Adv.
For Chandani Chowk SVM (Intervenor)
Ms. Pallavi Mohan, Adv. For Impleaders in M.A.
No. 392/15 and 393/15
Inspector Prashant Kr. For Kotwali
Mr. Pratap Singh for PWD
Mr. Ramesh Kr., Inspector
Mr. Dalbir Singh, Insp.
Mr. K.C. Anand, Insp.
Mr. Vijay, Insp.

Mr. Ravinder Kr., ACP
 Mr. Surinder Kr., Insp.
 Mr. Vijay Pal Singh, Insp.
 Mr. Devshanker, ASP
 Mr. Manesh kumar, Insp.

Original Application No. 95 of 2014

Present:	Applicant:	Appearance not marked
	Respondent No.1:	Mr. Vikas Malhotra & Mr. M.P. Sahay, Advs.
	Respondent No.2-6:	Mr. Ardhendumauli Kr. Prasad, Adv.
	Respondent No. 7 :	Mr. Rahul Chaudhary, Adv.
	Respondent No. 29 :	Mr. M. Yogesh Kanna and Mr. Jayant Patel, Advs. For State of Tamil Nadu Mr. Rahul Chaudhary and Ms. Pallavi Talware Advs. - Conservation Action Trust. Mr. Devraj Ashok, Adv. For State of Karnataka Mr. Anil Grover, AAG with Mr. Rahul Khurana, Adv. For State of Haryana Mr. Amit Verma and Mr. Aditya N. Prasad, Local Commissioners.

Date and Remarks	Orders of the Tribunal
<p>Item Nos. 04 to 05 April 28, 2015 A</p>	<p>In the previous orders we had noticed high pollution of air in NCR Delhi. Needless to refer again to the various orders of the Tribunal where unquestionably it was clear from the records that ambient air quality of NCR of Delhi violates all prescribed norms and standards. The polluted air in NCR Delhi is injurious to human health particularly young children. It is in fact conceded on behalf of the Authorities present before us and the learned counsel appearing for various parties that the ambient air quality is so very injurious particularly to the children under the age of 5 years and they are suffering from asthmatic problems at this tender age. At the cost of the repetition, we may notice that there are three main sources of air pollution in the NCR of Delhi. They are dust, emissions resulting from burning and industrial pollution and finally the vehicular pollution. In relation to the pollution by dust we have already issued detailed directions vide order dated 10th April, 2015. Today we would take up the matter in relation to pollution by burning of various materials and pollution caused by emissions from industries.</p>

It is on record before us that the garbage and other burning is not the only source of the air pollutant and it forms nearly 29.4 % of the air pollution with reference to PM₁₀. Its contribution in terms of PM_{2.5} is not placed before us, despite our earlier orders. Burning trash in the open area produces many pollutants including dioxins, particle pollution, polycyclic aromatic hydrocarbons, volatile organic compounds, carbon monoxide, hexachlorobenzene and ash and fumes released can be carcinogenic. These are dimensions of the serious environmental issues that we are concerned with. It is absolutely essential that directions are issued by the Tribunal for prevention and control of air pollution requiring the Authorities concerned to stop this menace forthwith. Viewed from any angle, the high interest would call for prohibitory orders and imposition of fine and heavy compensation on violators, who for their short gains avoid hard work required of them in discharge of their duties and allow the burning of garbage, leaves and allied materials thus exposing the public at large to such serious life threatening diseases. There is complete unanimity at the bar that stringent steps are required to be taken to prevent and control air pollution particularly resulting from burning of garbage and other allied materials. We hereby restrain any person from burning crop residues and trash. Thus, we issue the following directions:-

1. All the directions contained in our order dated 04th December, 2014 shall continue to be in force and the Authorities concerned would carry out the said directions in their true spirit and substance.

2. There shall be complete prohibition of burning of any kind of garbage leaves, waste plastic, rubber, self-moulding compound and such other materials in the open. Any person affected or concerned would have a right to make a complaint in writing or otherwise to the SHOs of the concerned area, the office of the Corporation, Council or Local Authority under whose jurisdiction that area falls, DPCC or State Pollution Control Board, and to its Regional Branches and to the Head of the Department of the concerned Authority/Government. We hereby direct every public Authority, Corporation, State Governments of NCT of Delhi, Uttar Pradesh and Haryana to forthwith notify the telephone numbers, website addresses or any other electronic media and process to which the complainant can make a complaint to any or all of the Authorities as indicated hereinabove. The complaints preferably should be made to the Authorities concerned who have jurisdiction over the area in which the offending activities is being carried on has been carried on.

3. We are informed that DPCC has already provided a Facebook account of Delhi Pollution Control Committee and the Whatsapp No. 09717593474 to this effect. All the Corporations within two days from today would notify on their websites the Website address and Mobiles Number to which such complaint can be made/sent. Similar steps should be taken by the concerned states falling in NCR.

4. It is directed that immediately upon receipt of such

complaint, the concerned Authority and/or Authorities through the designated Officers would proceed to take action in accordance with law.

5. We direct that for every incident of burning of any such above stated material, the person who is found actually burning such material and/or responsible for or abating such burning would be liable to pay compensation in terms of the Section 15 of the National Green Tribunal Act, 2010 for polluting the environment and would be liable to pay a sum Rs. 5000, to be paid instantaneously.

6. In the event such offender refuses to comply with the directions of the Authorised Officers, the Authorised Officers would be at liberty to serve a Notice upon him for appearing before the Tribunal and to show cause why the person burning, abating or responsible for such burning materials afore indicated, be not directed to pay compensation as may be determined by the Tribunal in accordance with law.

7. We make it clear that the orders of the NGT are to be complied with as a decree/order of the Civil Court. Thus, all these Authorities and the Police are duty bound to carry out the directions/orders of the Tribunal in accordance with law. The money so collected, shall be maintained by the Corporation and/or any Authority as a separate fund to be utilised for improvement, restoration and restitution of the environmental degradation resulting from such activity or otherwise.

8. We make it clear that the payment of such

compensation shall not absolve the offender of other liabilities that such person may incur under different laws in force including other provisions of the National Green Tribunal Act, 2010.

9. To ensure that there is no burning of leaves or horticulture residue, we direct all the Corporations, Authorities and the State Governments to ensure that there is proper composting pits area-wise prescribed within one week from today. The composting will be only at those sites and all the Corporations, Authorities and the State Governments shall be responsible to provide due space for collection and deposit of horticulture waste including leaves for composting purposes at these sites.
10. Each Officer under whose jurisdictions the area would fall, would be personally responsible and all the Officers/ Officials working under him would be personally responsible for imposition of compensation and costs. If any activity is found to be carried out in any area of NCR of Delhi in violation to the Orders of the Tribunal and the law in force in that regard, the Deputy Commissioners, Director Horticulture, SHO concerned, Assistant Commissioners, Sanitary Officers of the area would be personally responsible. Similarly Officers from the State of Haryana and Uttar Pradesh would be personally responsible for compliance of these directions.
11. The composting sites should be provided nearer to the places where there is a large number of trees,

gardens and the compost bits which also convert into self-manure should be used for horticulture purposes to ensure that the burden on the site does not increase beyond its capacity.

12. The decision in regard to the land fill sites should be taken by the DDA and NCT of Delhi as expeditiously as possible in any case not later than three weeks from today. We may notice that Hon'ble Supreme Court of India in Writ Petition No. 888 of 1996 in the matter of Almitra H. Patel Vs. Union of India had directed the Authorities to identify such sites as back as on 15th February, 2015 unfortunately till date adequate number of sites have not been earmarked. Let this be done within the stipulated period under these directions and such sites be identified by the respective Corporations and Authorities if not done so far.

13. In relation to burning of plastic and allied products, we issue specific directions to the concerned Police Officers and the Officers of the Corporations that no one would permit the burning of plastic and allied products in part of NCR of Delhi. If Authorities notice any burning of such materials they would not only ensure that such activity does not persist but even would be entitled to seize the entire material which is illegally and unauthorisedly stored held by a person who does not possess of a license or authorisation for dealing with such products in accordance with The Plastics Waste (Management and Handling) Rules, 2011. Upon seizure of such material, the Authorities would take a direction from

the Tribunal and dispose of the same by giving it to the Authorised Dealer in accordance with directions issued.

14. The CPCB and DPCC would jointly conduct inspection of all the thermal power stations generating electricity using coal and gas as its fuel within two weeks from today. The ambient and stack air quality samples would be collected and the analysis reports be submitted to the Tribunal. This amongst others would include Badarpur, Indraprastha, Rajghat, Dadri and Bawana plants. We make it clear at this juncture that all these power generating plants should improve their working and should be fully sufficient so as to cause no pollution. In the event of violation of prescribed standard, the Tribunal would be compelled to pass coercive orders in accordance with law.
15. The CPCB, DPCC and Uttar Pradesh and Haryana Pollution Control Boards shall ensure that brick kilns working and operating in NCR have consent of the Boards and are adhering to the prescribed norms for emissions.
16. In the event of any of the brick kilns found to be in violation of the environmental norms or is operating in violation to the conditions of the consent order, the Report shall be submitted to the Tribunal and notice upon such Units to show cause why they should not be directed to be closed forthwith for such violations. While conducting inspection of such brick kilns, it will also be reported as to what extent the fly ash is being used for the purposes of

manufacturing the bricks. If none, causes thereof.

17. We direct the Local Bodies, Corporations, Councils and the State Governments of NCT of Delhi, Uttar Pradesh and Haryana to immediately publicise and educate public at large, particularly the people living in unauthorised colonies, farmers and persons dealing with different kinds of waste, safai karamchari in regard to the ill effects of burning of the materials afore-recorded on the human health. Necessity for taking up remedial and corrective measures and also punitive consequences that may result from violation of these directions.
18. We direct the teams of the State Pollution Control Boards, DPCC and CPCB to examine the impact of industries or individual involved in pottery and ceramic industries in the NCR of Delhi and the remedial measures that are required to be taken.
19. We also direct to the DPCC, Pollution Control Boards to inform the Tribunal if they have taken steps for registration of the plastic recycling in accordance with law or not.

List these matters on 01st May, 2015 at the end of the Board.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

	,EM (B.S. Sajwan)
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